SUPREME COURT OF THE UNITED STATES.

No. 285.

ANDREW ROTHWELL, JOHN A. SMITH, HENRY NAYLOR, AND ROBERT S. FORDE, APPELLANTS,

v.

GEORGE W. DEWEES, MARY SMITH, ARCHER B. SMITH, AND ANN ROTHWELL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLUMBIA.

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Style of Court.

District of Columbia, to wit.

At a Circuit Court of the District of Columbia, begun and held in and for the county of Washington, at the city of Washington, on the third Monday of January, being the sixteenth day of the same month, in the year of our Lord one thousand eight hundred and sixty, and of the Independence of the United States the eighty-fourth,

Were present, the Honorable James Dunlop, chief judge; James S. Moisell, and Wm. M. Merrick, assistant judges; William Selden, Esquire, marshal; John A. Smith, clerk.

Parties.

In the record of proceedings of the same court, among others are the following, to wit:

ANDREW ROTHWELL, JOHN A. SMITH, HENRY NAYLOR and ROBERT S. FORD,
v.
GEORGE DEWEES, MARY SMITH, ARCHER B. SMITH, and ANN ROTHWELL.

Be it remembered, that heretofore, to wit, on the 15th of May, in the year 1852, the said complainants, by Joseph H. Bradley, Esquire, their solicitor, filed in court their bill of complaint, with the exhibits, against the said defendants, in the words and figures following, to wit:

Bill of Complaint.

To the honorable the judges of the Circuit Court, sitting in equity, for the county of Washington:

The bill of complaint of Andrew Rothwell, John A. Smith, and Henry Naylor, complainants, against George Dewees. Mary Smith, and Arthur B. Smith, and Ann Rothwell, defendants, showeth, that your orator, Andrew Rothwell, by the several deeds of conveyance, true copies whereof are herewith filed and exhibited as parts of this bill, marked Complainants' Ex. 1, 2, 3, 4, became the purchaser of all the real estate and all those pieces and parcels of ground situate in the city of Washington, of which Standish Ford, late of the city of Philadelphia, died seised and possessed, or to which he was in any

manner entitled, and also of all the estate, right, title, and interest of John Reed, late of said city of Philadelphia, deceased, at any time had, in, to, out of, or upon the said land, that is to say, those pieces and parcels of land in said city, among others, known and distinguished in the ground-plan of said city of Washington, and marked and laid down on the plat thereof, as lots numbered two and four, in square numbered three hundred and twenty-eight, part of square numbered three hundred and eighty-three, and the whole of square marked square west of square numbered four hundred and seventy-one, which said squares were sold for taxes due to the said city of Washington, and purchased by William Dewees in his life-time, late of said city of Washington, deceased, and conveyed to him by said corporation, on the 29th day of August, 1836, by their deed of that date; that said William Dewees departed this life some time in the year , intestate, leaving the said George Dewees, Mary Smith, who had before then intermarried with the said Archer B. Smith, Ann Rothwell, and William Dewees, his only heirs at law; and the said William Dewees has since died intestate, unmarried, and without lawful issue, whereby the whole estate of said William Dewees, if any he had at his death, hath descended to and devolved upon said defendants; that the said defendants have applied to this honorable court, on the common law side thereof, for a division of the said estate of their said ancestor, which hath descended to them, and such proceedings have been had therein pursuant to the statute, that commissioners have been appointed by your honors to make the division thereof, who have entered upon their trust and have reported to your honors a division thereof, and that report is now before your honors as a common law court, for your final approval and ratification; that Ann Rothwell, one of said heirs, is the wife of your orator, Andrew, but neither she nor your said orator have participated actively in said proceedings; that in making said division the said commissioners have, among other real estate claimed by the said heirs to have belonged to their said ancestor in his lifetime, included the pieces of land hereinbefore described, and have divided the same among the said heirs, so that in the event of a final ratification by your honors of the said report, your orators will be put to great additional labor and expense, and to a multiplicity of suits to assert their rights to, and recover the same from the said defendants by several actions against them, in case it shall appear that your orators are entitled thereto, and to redeem them from said defendants; and they pray leave to refer to the said proceedings on the records of the common law side of this court for greater certainty, in the same manner and to have the same effect as if they were herein incorporated, or an authenticated transcript thereof was herewith exhibited.

Your orators show to your honors, that although the conveyances aforesaid were executed and delivered to your orator, Andrew Roth-

well, yet he received the same with the consent of your orators, Henry and John A., and for their benefit, equally and jointly with himself, without any right of survivorship, but as tenants in common. They further show, that on the 14th December, 1796, Joseph Ball and Standish Ford purchased from Robert Morris (who your orators charge possessed the same to him and his heirs) a large amount of real estate in the city of Washington, and among it was the property hereinbefore described; and he received a deed therefor, which was duly executed, acknowledged, and recorded in the county of Washington aforesaid, and an authenticated copy of which they herewith file, as part of this bill, marked Complainants' Ex. No. 5, by which the said property was fully conveyed to the said Joseph Ball and Standish Ford, as tenants in common, and not as joint tenants, to said Ball and Ford, their respective heirs and assigns, in moieties as aforesaid.

The said Standish Forde was, at the time of his said purchase, engaged in business in said city of Philadelphia, as a copartner of one John Reed, and so continued to the day of his death. The said John Reed survived him, and after the death of said Standish Ford, set up and claimed that the said purchase so as aforesaid made by said Standish Forde was on partnership account, and he thereupon claimed to exercise, and did in fact exercise, ownership over the said property, until he failed in business, and made an assignment of the partnership effects to one William Page, as will appear by a true copy thereof, marked Exhibit , which your orators will produce and prove; and among other property so assigned by said Reed to said Page was the said real estate in the said city of Washington. Your orators are informed, and believe it to be true, and state and charge that the children and heirs at law of said Standish Ford were, at the time of his death, all of them infants of tender years, and had no knowledge of the business existing between said Forde and Reed, or of the fact whether the said property was partnership property or not, nor do they now know whether it was or not in fact partnership property. But so it is that the said John Reed, having claimed the same after the death of said Forde, continued thereafter to hold the same by his claim as survivor and as partnership property, until some time in the year 18 , when he assigned the same, together with all the partnership effects and property which he held by right of survivorship, to a certain William Page, upon certain trusts for the benefit of the creditors of said firm and of said John Reed, as hereinbefore stated, and the said William Page took upon himself the burthen of the execution of the trusts in said assignment mentioned. Your orators further show that the said assignment never was recorded among the land records of said county of Washington (as they believe), and is therefore inoperative and void to convey the legal estate in said lots and pieces of ground in said city of Washington; but they are advised that the said assignment was ope-

rative to vest in said Page full authority to make sales of said property, and to bind the heirs of said Reed and of said Forde, if the same was partnership property, to make a conveyance thereof, and that a court of equity would enforce any fair bona fide contract of sale which should be made by said Page. They further show that said Page, having as aforesaid taken upon himself the burthen of the execution of said trusts as assignee as aforesaid, thereafter, as they believe, paid the taxes which from time to time became due and payable on said property to the said city of Washington, but finding it inconvenient for him, residing as he did in Philadelphia, to give such attention to said property as was requisite, he engaged the services of the said William Dewees, the elder, as agent to attend to the same, and for several years the said Dewees did in fact as agent as aforesaid attend to the payment of the taxes upon said property. That while the said Dewees was so as aforesaid acting as such agent of said estate, the said property, or a great part thereof, was sold for taxes, and at one of the said tax sales the said William Dewees became the purchaser of the said lots in square 328 and in 383, and the whole of said square west of square 471, and afterwards received the deed therefor hereinbefore referred to. Your orators are advised that the said Dewees thereby became and was trustee of said estate, and took the said property clothed with a trust for the benefit of the heirs of said Forde and said Reed, having himself a lien thereon only for the amount which he has paid thereon by way of taxes, surplus money, interest, and commissions, and that the legal estate therein hath descended to defendants clothed with the like trust. Your orators further show that the said William Page departed this life without having executed the said trusts, and the Supreme Court of the Eastern District of Pennsylvania, in a proceeding duly and lawfully instituted therein for that purpose, on the 9th day of January, 1841, appointed one Robert H. Smith assignee of said John Reed, surviving partner of Standish Ford, and thus file a copy of his said appointment, Ex. 7. That the said R. H. Smith accepted the said appointment, and found that the whole of the said property had been sold for taxes, much of it had been built upon and improved, and the cost of redeeming the same, if it was subject to redemption, would involve a large sum of money, which the said estate could not then advance, and under all circumstances, and in the exercise of a sound discretion, he sold all and whatsoever interest in said property, and right thereto, and to the redemption thereof, to your orator, Rothwell, for the sum of seven hundred dollars, and thereupon executed and delivered to your said orator a deed conveying and purporting, and intended to convey to him all and all manner of interest, claim, and demand in law or equity which he had as assignee as aforesaid, and your orators herewith exhibit as part of this their bill a true copy of said assignment, marked Complainant's Ex. No. 4. Your orators further show that afterwards

your orator, Rothwell, having come to an agreement with your orators, Naylor and Smith, proceeded to purchase, and did in fact purchase from the heirs of the said Standish Ford all their interest in said estate, and received their deeds therefor hereinbefore exhibited, and by their said agreement among themselves, hold and claim to hold under said several contracts, purchases, and deeds, all the interest of said Standish Forde in his lifetime, and of said John Reed, so that they claim and hold an undivided moiety, or half part of, and in all the said property. Your orators show to your honors that being owners as aforesaid, they have since applied to the said defendants to redeem from said tax sale the said lands so as aforesaid conveyed by the said corporation to said William Dewees, and offered themselves ready and willing to pay all and whatsoever sum and sums of money is and are due thereon to the said defendants as heirs of said William Dewees on account of the said sales for taxes, but the defendants have hitherto refused to permit them to redeem the same, and set up and pretend that they hold the same in fee simple, fully discharged of all right of redemption by your orators, or any other person or persons. And your orators are advised that they have on various grounds the right to redeem the said pieces of ground in equity, but that they can have no relief at common law. To the end, therefore, that the said George Dewees, Mary Smith, and Archer B. Smith, and Ann Rothwell, may be made defendants hereto, and may severally answer all and singular the matters and things hereinbefore contained, and that it be referred to the auditor of this court to state an account of the sums due to said defendants upon and by reason of said tax sales, and that your orators be let in to redeem one undivided moiety or half part of said lands, and that the said defendants be restrained from proceeding further with their said petition for a division of said estate of said William Dewees until the further order of this court, and for such other and further relief, and may it please your honors to grant the writ of subpœna and injunction.

BRADLEY,
For Complainant.

District of Columbia, Washington County, to wit:

Andrew Rothwell makes oath, according to law, this 15th day of May, 1852, that the facts contained in the foregoing bill, stated on his own knowledge, are true, and he believes those to be true which are stated on the information of others.

WM. J. McCORMICK,
J. P.

May 15th, 1852.

Exhibit No. 1, *referred to in the foregoing Bill of Complaint.*

William S. Hansell and Wife to Margaret Smith.

Deed recorded 5th October, 1849, in Liber I. A. S., No. 7, folios 301, &c.

This indenture, made the eighteenth day of October, eighteen hundred and forty-seven, between William S. Hansell and Ellen, his wife, of the first part, and Margaret Smith of the other part, widow, all of the city of Philadelphia, witnesseth, that for and in consideration of one dollar unto them paid by the second party, they, the said William S. Hansell and Ellen, his wife, have granted, bargained, sold, and conveyed, and hereby do grant, bargain, sell, and convey unto the said Margaret Smith, all and singular, the lots, pieces of land, and real estate, which they, the said first parties, or either of them, have acquired under the will of Standish Forde, or the will of Sarah Forde, the father and mother of the said Ellen and Margaret, or as heirs at law, or acquired and purchased in consequence of the said Ellen being an heir or devisee as aforesaid, situate in the city of Washington or District of Columbia, with all the rights, incidents, and appurtenances. To have and to hold the same unto her, the said Margaret Smith, her heirs, and assigns, to the only proper use and behoof of the said Margaret Smith, her heirs and assigns, forever.

In witness whereof, the said parties have hereunto set their hands and seals.

WM. S. HANSELL. [SEAL.]
ELLEN HANSELL. [SEAL.]

Sealed and delivered
in presence of us.
SARAH H. HENNING,
S. BADGER.

United States of America.

Be it known, that before me, Samuel C. Badger, Notary Public for the Commonwealth of Pennsylvania, residing in the city of Philadelphia, by lawful authority duly commissioned and sworn, personally appeared William S. Hansell and Ellen Hansell, his wife, and severally acknowledged the above instrument of writing to be their and each of their several act and deed. She, the said Ellen, being of full age, and by me duly examined separate and apart from her said husband, and the contents thereof being first made known to her, declared that she did voluntarily and of her own free will and accord, seal as her act and deed, deliver the said indenture without any coercion or compulsion of her said husband.

In testimony whereof, I have hereunto set my hand and affixed my notarial seal, this fourth day of November, [SEAL.] in the year of our Lord one thousand eight hundred and forty-seven.

S. C. BADGER,
Notary Public.

City of Philadelphia, State of Pennsylvania, *ss.*

Mayor's Office.

Personally came before me, John Swift, Esq., mayor of the city of Philadelphia, on the eleventh day of July, Anno Domini one thousand eight hundred and forty-nine, Samuel C. Badger, Esq., of said city, who being duly sworn, according to law, deposes and says, that he is a notary public for the commonwealth of Pennsylvania, &c., and by lawful authority duly commissioned and sworn, and further, that as such the foregoing or accompanying acknowledgment of William S. Hansell and Ellen Hansell, his wife, were taken by him, or made in his (deponent's) presence, on the fourth day of November, A.D. eighteen hundred and forty; that the signatures thereto are in the proper handwriting of said William S. Hansell and the said Ellen Hansell, &c., written and acknowledged by said parties in the presence of deponent.

S. C. BADGER.

In testimony whereof, I have hereto set my hand, and have caused the corporate seal of said city to be affixed, the day and year above written.

[SEAL.] JNO. A. SWIFT,
Mayor.

Exhibit No. 2, referred to in the foregoing Bill of Complaint.

Margaret Smith and Ann Forde to Andrew Rothwell and Henry Naylor.

Deed, recorded 5th October, 1849, in Liber I. A. S., No. 7, folios 297, &c.

This indenture, made this thirtieth day of June, in the year of our Lord eighteen hundred and forty-nine, between Margaret Smith of the city of Philadelphia (late Margaret Forde), of the first part, Ann Forde of the same place, of the second part, and Andrew Rothwell and Henry Naylor of the county of Washington and District of Columbia, of the third part, witnesseth, that the said Margaret Smith, in consideration of the sum of five dollars, which she hereby acknowledges to have received of the said Andrew Rothwell and Henry Naylor, and the said Ann Forde, in consideration of the sum of five dollars, which she hereby acknowledges she has received from the said Andrew and Henry, have, and each of them, hath granted,

bargained, sold, and conveyed and do and each of them doth hereby grant, bargain, sell, and convey to the said Henry Naylor and Andrew Rothwell, as tenants in common, and not as joint tenants, all those pieces and parcels of ground situate in the city of Washington and District of Columbia of which Standish Forde, late of the said city of Philadelphia, died seised and possessed, or to which he was in any manner otherwise entitled, and which descended to the said Margaret and to the said Ann, as two of the heirs at law of said Standish, or which were devised to them respectively by the last will of said Standish, or to which they, or either of them, are, or is entitled as heirs or heir at law, or devisees of Sarah Forde, widow of said Standish, or by gift, grant, devise, or purchase, from any other person whomsoever, and all the legal and equitable estate and interest, claim, and demand, which they, and either of them, respectively have in and to said pieces and parcels of land, together with all and singular the rights, privileges, and appurtenances to the said lots, pieces, and parcels of land, and to each and every of them, and to every part and parcel thereof belonging, or in anywise appertaining. To have and to hold the said premises, and every part and parcel thereof, to and unto and to the use of the said Henry Naylor and Andrew Rothwell, as tenants in common, and not as joint tenants, their heirs, assigns, forever.

In testimony whereof, the said Margaret Smith and Ann Forde have hereunto set their hands and seals, the day and year first above written.

MARGARET SMITH. [SEAL.]
ANN FORDE. [SEAL.]

Signed, sealed and delivered
in the presence of us.
JOEL COOK.
THOMAS D. SMITH.

State of Pennsylvania, Philadelphia County, *to* wit:

We, Joel Cook and Thomas D. Smith, two of the justices of the peace in and for the county aforesaid, in the State of Pennsylvania, do hereby certify, that Margaret Smith and Ann Forde, parties to a certain *to a certain* deed, bearing date the thirtieth day of June, eighteen hundred and forty-nine, above written and hereto annexed, personally appeared before us in our county aforesaid, the said Margaret Smith and Ann Forde, being personally well known to us as the persons who executed the said deed and acknowledged the same to be their act and deed. Given under our hands and seals this thirtieth day of June, eighteen hundred and forty-nine.

JOEL COOK, [SEAL.]
Alderman and ex-officio J. P.
THOMAS D. SMITH, [SEAL.]
Alderman and ex-officio and J. P.

State of Pennsylvania, City and County of Philadelphia, *ss.*

I, Anthony W. Alwine, prothonotary of the Court of Common Pleas for the City and County of Philadelphia, do certify, that Thomas D. Smith and Joel Cook, Esqs., before whom the foregoing acknowledgments was made, and who have hereto set their names in their own proper hand, were, at the time of so doing, and now are, aldermen in and for the city of Philadelphia, and ex-officio justices of the peace, duly commissioned and qualified, to all whose acts such full faith and credit are and ought to be given, as well in courts of judicature as elsewhere.

In witness whereof, I have hereunto set my hand and affixed
[SEAL.] the seal of the said court at Philadelphia, this third day of July, one thousand eight hundred and forty-nine.

ANTHY. W. OLWINE,
Prothonotary.

Exhibit No. 3, *referred to in the foregoing Bill of Complaint.*

Standish Forde and N. P. Poore and wife, to Andrew Rothwell and Henry Naylor.

Deed, recorded October 5th, 1849, in Liber I. A. S., No. 7, folios 299, &c.

This indenture, made this thirtieth day of June, in the year eighteen hundred and forty-nine, between Standish Forde, of the city of Louisville and State of Kentucky, of the first part; Nathaniel P. Poor and Mary Poor his wife (the said Nathaniel acting by his attorney, S. F. Poor), of the same place, of the second part, and Andrew Rothwell and Henry Naylor, of the county of Washington, and District of Columbia, of the third part, witnesseth, that the said parties of the first and second part, each respectively for himself and themselves, for and in consideration of the sum of five dollars to them severally in hand paid by the said Andrew Rothwell and Henry Naylor, the receipt of which they do hereby severally and respectively acknowledge, have, and each of them hath, granted, bargained, sold, assigned, transferred, set over, and released, and each of them doth, and do hereby grant, bargain, sell, assign, transfer, set over and release to the said Andrew Rothwell and Henry Naylor, their heirs and assigns, as tenants in common, and not as joint tenants, all the lands, tenements and hereditaments situate in the city of Washington, and District of Columbia, of which Standish Forde, late of the city of Philadelphia, died seized and possessed, or to which he was in anywise or manner entitled, and which have *have* descended to his heirs at law, of whom the said Standish Forde, party of the first part hereto, and Mary Poor, one of the parties of

the second part, are two, and also all the estate, right, title, interest, claim, and demand, of the said Standish Forde and Nathaniel P. Poor and Mary his wife, in, to, out of, or upon, any lands, tenements, hereditaments, which lie in the city of Washington aforesaid, and which have descended to the said Standish and Mary, as two of the heirs at law of the said Standish Forde, late of Philadelphia, deceased, both at law and in equity:

To have and to hold all and singular the premises to, and unto, and to the use of the said Andrew Rothwell and Henry Naylor, their heirs and assigns, as tenants in common, and not as joint tenants. In testimony whereof, the said parties of the first and second part have hereto set their hands and affixed their seals, this thirtieth day of June, eighteen hundred and forty-nine.

STANDISH FORDE. [SEAL.]
S. F. POOR, [SEAL.]
Attorney for N. P. Poor.
MARY POOR. [SEAL.]

State of Kentucky, Jefferson County, to wit.

We, G. J. Johnson and G. W. Chambers, justices of the peace in and for the county aforesaid, in the State of Kentucky, do hereby certify, that Standish Forde, a party to a certain deed, bearing date on the thirtieth day of June, eighteen hundred and forty-nine, and hereto annexed, personally appeared before us in our county aforesaid, the said Standish Forde being personally well known to us as the person who executed the said deed and acknowledged the same to be his act and deed. And we do further certify, that at the same time and place, Mary Poor, the wife of Nathaniel P. Poor, party to the same deed, personally appeared before us the said Mary Poor, being personally well known to us as the person who executed the said deed, and being by us examined privily and apart from the husband, and having the deed aforesaid fully explained to her, she, the said Mary Poor, acknowledged the same to be her act and deed, and declared that she had willingly signed, sealed and delivered the same, and that she wished not to retract it. Given under our hands and seals, this 30th day of June, 1849.

G. J. JOHNSON, [SEAL.]
J. P.
G. W. CHAMBERS, [SEAL.]
J. P.

State of Kentucky, Jefferson County, to wit:

I, Curran Pope, clerk of the County Court for the county aforesaid, do certify that G. J. Johnson and G. W. Chambers, whose names are signed to the within and foregoing certificate, are acting justices of the peace in and for said county, duly commissioned and sworn,

and that full faith and credit are due to all their official acts as such, and that their signatures thereto are genuine.

[SEAL.] As witness my hand and seal of office this 30th day of June, 1849.

CURRAN POPE,
Clerk.
By HARRISON STUCKY,
D. C.

Exhibit No. 4.

Exhibit No. 4, referred to in the Bill of Complaint. Referred to in the foregoing Bill of Complaint.

Know all men by these presents, that I, Robert H. Smith, of the city of Philadelphia, assignee of John Reed, surviving partner of Standish Forde, appointed by the Supreme Court of the Eastern District of Pennsylvania, on the ninth day of January, in the year of our Lord one thousand eight hundred and forty-one, for and in consideration of the sum of seven hundred dollars, lawful money of the United States of America, to me in hand paid by Andrew Rothwell, of Washington city, in the District of Columbia, at and before the sealing and delivery hereof, the receipt of which I do hereby acknowledge, have and by these presents do assign, remise, release, and forever quitclaim unto the Andrew Rothwell, his heirs, executors, administrators, and assigns, all and all manner of interest, claim, and demand whatsoever in law or equity which I have, as assignee as aforesaid, in and to the whole interest, to wit, one undivided moiety of Standish Forde, late of the city of Philadelphia, deceased, and former partner of the said John Reed, in and to certain lots and squares, and parts of squares, in said Washington city, to wit, lots numbered two and four in square numbered three hundred and twenty-eight, the whole of square numbered three hundred and eighty-three, and the whole of square west of square numbered four hundred and seventy-one, and also square numbered four hundred and sixty-seven, and four hundred and seventy-one, and also in and to the said interest of the said Standish Forde in all other lots and squares in said city of Washington, the said lots and squares having been held by the said Standish Forde, in company with the said Joseph Ball, deceased.

In witness whereof I have hereunto set my hand and seal at the city of Philadelphia aforesaid, this twenty-seventh day of March, in the year of our Lord one thousand eight hundred and forty-six.

ROBERT H. SMITH, [SEAL.]
Assignee of John Reed, surviving partner of S. Forde.

Sealed and delivered
in presence of
JOHN DICKE,
T. K. WALLACE.

City of Philadelphia, *ss.*

On this twenty-seventh day of March, A.D. 1846, before me the subscriber, mayor of the city of Philadelphia, personally appeared Robert H. Smith, the grantor in the above deed of release, and acknowledged the same to be his act and deed, and desired the same might be recorded as such.

[SEAL.] Witness my hand and the seal of the said city the same day and year.

JNO. SWIFT,
Mayor.

Exhibit No. 5, *referred to in the foregoing Bill of Complaint.*

Robert Morris and wife to Joseph Ball and Standish Forde.

Deed recorded in Liber C., No. 3, folios 7, &c.

This indenture, made the fourteenth day of December, in the year of our Lord one thousand seven hundred and ninety-six, between Robert Morris, of the city and county of Philadelphia, in the State of Pennsylvania, Esquire, and Mary, his wife, of the one part, and Joseph Ball, Esquire, and Standish Forde of the said city, merchants, of the other part, witnesseth, that the said Robert Morris and Mary, his wife, for and in consideration of the sum of sixty thousand dollars, lawful money of the United States of America, to them at or before the sealing and delivery hereof by the said Joseph Ball and Standish Forde well and truly paid, the receipt whereof is hereby acknowledged, have granted, bargained, sold, aliened, enfeoffed, released, and confirmed, and by these presents do grant, bargain, sell, alien, enfeoff, release, and confirm unto the said Joseph Ball and Standish Forde, their heirs and assigns, as tenants in common, all those following squares or parcels of land, situate, lying, and being in the city of Washington, in the territory of Columbia, and marked and distinguished on the plot of the said city by the numbers following, that is to say, one square marked with the number three hundred and twenty-five, containing sixty-nine thousand seven hundred and seventy-two square feet; one other square marked with the number three hundred and twenty-eight, containing fifty-five thousand one hundred and sixty-five square feet; one other square marked with the number four hundred and twelve, containing fifty-four thousand five hundred and one square feet; one other square marked with the number four hundred and sixty-seven, containing one hundred and thirty-one thousand four hundred and five square feet; one other square, being the one which stands nearest in a due west direction to the square marked with the number four hundred and seventy-one, containing twenty-six thousand eight hundred and thirty-six square feet; one other square marked with

the number four hundred and seventy-one, containing one hundred and twelve thousand five hundred and sixty-five square feet; one other square marked with the number five hundred and forty, containing one hundred and fifty-four thousand eight hundred and sixty-six square feet; one other square marked with the number five hundred and forty-three, containing one hundred and thirty-two thousand five hundred and one square feet; one other square marked with the number five hundred and ninety-two, containing seventy-eight thousand seven hundred and twelve square feet and one-half of a foot; one other square marked with the number three hundred and eighty-three, containing one hundred and thirteen thousand eight hundred and forty-four square feet, except two lots, part of said square on the western side thereof, containing five thousand two hundred and sixty-five square feet each, which are the property of a certain Notley Young, amounting in the whole to nine hundred and nineteen thousand six hundred and thirty-seven square feet one-half foot, be the same more or less (being the same squares, lots and premises which James Greenleaf, of the city of New York, Esquire, by indenture dated the seventh day of August, 1795, and recorded in that part of Columbia which lies within the State of Maryland in book B., No. 2, folio 387, granted unto the said Robert Morris in fee simple).

Together with all and singular the ways, alleys, passages, waters, water-courses, rights, privileges, members, and appurtenances, whatsoever, to the hereby granted premises respectively belonging or in anywise appertaining, and reversions and remainders, rents, issues, and profits thereof, and all the estate, right, title, interest, property, claim, and demand, whatsoever, of him, the said Robert Morris and Mary his wife, in law and equity of, in, and to the same. To have and to hold all and singular the said ten several squares, or lots, or parcels of lands, hereditaments, and premises hereby granted or mentioned so to be, with the appurtenances, unto the said Joseph Ball and Standish Forde, their heirs and assigns, to and for the only proper use and behoof of the said Joseph Ball and Standish Forde, their heirs and assigns, as tenants in common forever, and not as joint tenants, free and clear of and from all mortgages, debts, judgments, and other incumbrances whatsoever. And the said Robert Morris, for himself, his heirs, executors, and administrators, doth hereby covenant, promise, and agree, that the said Robert Morris, and his heirs, all and singular the said land and premises hereby granted or mentioned so to be, with the appurtenances, unto the said Joseph Ball and Standish Forde, their respective heirs and assigns, in moieties, as aforesaid, against him, the said Robert Morris and his heirs, and against all and every other person and persons whatsoever, lawfully claiming or to claim by, from, or under him or them, or any of them, shall and will warrant, and forever defend. And further that the said Robert Morris and his heirs shall and will, at any time or times hereafter, at the request and proper costs and

charges in the law, of the said Joseph Ball and Standish Forde, their respective heirs or assigns, make, do, execute, deliver, and acknowledge, or cause to be made, executed, delivered, and acknowledged, all such further and other act and acts, deed or deeds, conveyances and assurances in the law, whatsoever, needful and necessary for the better and more perfect assuring and confirming all the said hereby granted lands and premises, with the appurtenances, unto the said Joseph Ball and Standish Forde, their heirs and assigns, respectively, as tenants in common, as they or their counsel learned in the law shall reasonably advise and require. And this indenture further witnesseth, that the said Robert Morris and Mary his wife, have constituted, made, and appointed, and by these presents do constitute, make, and appoint William Cranch and Thomas Munroe, Esq., of the city of Washington, in the District of Columbia, jointly and severally, their true and lawful attorney and attorneys, with full power for them, or either of them, to appear before any court, judge or judges, justice or justices, or any other person or persons, having competent authority, by the laws of Maryland, to take the acknowledgment of this indenture, and there to acknowledge this indenture for and in the name of, and as the act and deed of them, the said Robert Morris and Mary his wife, in order that the same may be recorded as such in due form of law.

In witness whereof, the said parties have interchangeably set their hands and seals hereunto, dated the day and year first above written.

ROBERT MORRIS. [SEAL.]
MARY MORRIS. [SEAL.]

Sealed and delivered
in the presence of us,
WM. CRAIK,
THOMAS MORRIS.

Received the day of the date of the above-written indenture of the above-named Joseph and Standish Forde, the full consideration moneys above-mentioned.

ROBERT MORRIS.

Witness at signing,
WM. CRAIK,
THOMAS MORRIS.

City of Philadelphia, *set.*

The seventeenth day of December, A.D. 1796, before me, Hillary Baker, Esq., mayor of the city of Philadelphia, in the commonwealth of Pennsylvania, came the above-named Robert Morris and Mary his wife, and acknowedged the above-written indenture to be their act and deed, and desired the same to be recorded as such; the said Mary thereunto voluntarily consenting, she being of full age, separate and apart from her said husband, by me thereon examined, and the contents made known to her.

In testimony whereof, and in order that the same may be recorded according to the laws of Maryland, I have hereto [L. S.] set my hand, and caused the seal of the corporation to be affixed, at Philadelphia, the day and year aforesaid.

HILLARY BAKER,
Mayor.

On the back of which deed was the following indorsement, to wit:

State of Maryland, Prince George's County, to wit:

On the third day of May, in the year of our Lord one thousand seven hundred and ninety-seven, personally appeared before us, the subscribers, two of the justices of the peace for the county aforesaid, William Craik, one of the witnesses to the within deed of indenture, and made oath on the Holy Evangelists of Almighty God, that he saw Robert Morris and Mary Morris his wife, the grantors in the said deed of indenture mentioned, sign, seal, and as their act and deed, deliver the said indenture, on the day of the date thereof, that he, this deponent, subscribed his name as eye-witness thereto, and that he saw Thomas Morris, the other subscribing witness, also subscribe his name as a witness thereto Sworn before us.

Witness our hands and seals, the day and year above written.

DAN'L CARROLL, of Duan.
COM CUNNINGHAM.

State of Maryland, Territory of Columbia, *set.*

Be it remembered, that on the eleventh day of May, in the year seventeen hundred and ninety-seven, before me, the subscriber, one of the commissioners appointed by virtue of an act of Congress, entitled "An act for establishing the temporary and permanent seat of the goverament of the United States," personally appeared Thomas Munroe, within named, and by virtue of the power of attorney contained in the foregoing indenture, acknowledged the said indenture, for and in the name of, and as the act and deed of the within-named Robert Morris and Mary Morris his wife, in order that the same may be recorded according to law, according to the acts of Assembly, in such case made and provided.

Before

ALEX'R WHITE.

Recorded the 12th day of May, 1797.

True copy.

Test. JOHN A. SMITH,
Clerk.

Exhibit No. 6, referred to in the foregoing Bill of Complaint.

This indenture, made the twelfth day of December, in the year of our Lord one thousand eight hundred and seven, between John Reed, of the city of Philadelphia, merchant, and Rachael his wife, of the first part, and Joseph Ball and William Page, merchants of the city of Philadelphia, creditors of said John Reed, either in his individual capacity, or as surviving partner of Standish Forde, deceased, of the second part, and the several other persons whose names are hereunto subscribed, and seals affixed, also creditors of the said John Reed, either in his individual capacity, or as surviving partner of said Standish Forde, deceased, of the third part. Whereas, the said John Reed now is, and stands justly and truly indebted unto the said Joseph Ball and William Page, and also unto the several other persons, parties hereto of the third part, and their respective partners, either in his individual capacity, or as surviving partner of said Standish Forde, deceased, in the several and respective sums of money set opposite to their respective names and seals, in the first schedule hereunder written, or hereunto annexed, as nearly as the same can now be conveniently ascertained. And whereas the said John Reed being at present unable to make full payment and satisfaction in cash to his said creditors, of their said several and respective debts, hath agreed to convey and assign over unto the said Joseph Ball and William Page, all and singular the lands and tenements, hereditaments, household furniture, goods, chattels, rights, credits, and other effects, the particulars whereof are mentioned in the second schedule hereunder written, or hereunto annexed, and all other the effects and estate, real, personal and mixed, of him, the said John Reed, whatsoever, and wheresoever the same may be situate in the United States of America, or elsewhere, belonging to him, either in his individual capacity, or as surviving partner of said Standish Forde, deceased, upon the trust and upon the terms and conditions hereinafter mentioned. Now this indenture witnesseth, that for and in consideration of the sum of one dollar, by the said Joseph Ball and William Page to the said John Reed, in hand, at or before the sealing and delivery of these presents, well and truly paid, the receipt whereof is hereby acknowledged, as well as for divers other good and valuable considerations them thereunto moving, they the said John Reed and Rachael his wife have, and each of them hath granted, bargained, sold, aliened, enfeoffed, released, assigned, set over and confirmed, and by these presents do and each *each* of them doth grant, bargain, sell, alien, enfeoff, release, assign, set over and confirm unto the said Joseph Ball and William Page, their heirs, executors, administrators and assigns, all those pieces, parcels, tracts, or lots of land, tenements, and hereditaments, with the appurtenances thereunto belonging, the particulars whereof are mentioned in the second schedule hereunder written, or hereunto annexed. And also all the mortgages, bonds,

bills, notes, and other securities for money, together with the several and respective debts, and all other the sums of money mentioned and contained in the second schedule hereunder written or hereunto annexed, and all other the effects and estate of the said John Reed, whatsoever and wheresoever, real, personal, and mixed, to him belonging, either in his individual capacity, or as surviving partner of said Standish Forde, deceased, and all the estate, right, title, interest, claim or demand whatsoever, at law or in equity, of him the said John Reed, in his individual capacity, or as surviving partner of said Standish Forde, deceased, and Rachael his wife, of, into or out of the same, or any part thereof.

To have and to hold the said pieces or parcels, tracts or lots of land, hereditaments and appurtenances thereunto belonging, and also all and singular the said mortgages, bonds, bills, notes, and other securities for money, together with the several and respective debts and other the moneys mentioned in the said second schedule hereunder written or hereunto annexed, and all other the estate and effects of him, the said John Reed, whatsoever and wheresoever, real, personal, and mixed, to him belonging, either in his individual capacity or as surviving partner of said Standish Forde, deceased, with the appurtenances, unto the said Joseph Ball and William Page, their heirs, executors, administrators, and assigns, upon the trusts and to and for the several and respective purposes hereinafter mentioned and contained, of and concerning the same, that is to say, upon trust to make sale and dispose of all and singular the said lands and tenements, hereditaments, goods, and chattels, and other premises hereby granted, released, and assigned, either by private sale or public auction, as they may think proper, and that the receipt of the said Joseph Ball and William Page shall be good and sufficient discharge for such purchase-money, or any part thereof. And it is hereby agreed that the purchaser or purchasers of all or any part of the said premises, shall not be answerable or responsible for any misapplication of the said purchase-money, nor shall he, she, or they be obliged to see to the application of the same; and then upon trust in the first place to retain to and reimburse themselves all such charges, damages, and expenses as they or either of them shall be put to in the execution of these presents. And upon further trust to pay, satisfy, and discharge certain debts due by promissory notes, to wit: No. 1, dated the thirtieth day of November, in the year of our Lord one thousand eight hundred and seven, drawn by the said John Reed, as surviving partner of the said Standish Forde, deceased, in favor of Andrew Summers, for seven hundred dollars, and by him indorsed to the Philadelphia Bank; No. 2, dated the twelfth day of October, in the year of our Lord one thousand eight hundred and seven, drawn by the said John Reed as surviving partner of said Standish Forde, deceased, in favor of Joseph Ball, for six hundred dollars, and by him indorsed to the Philadelphia Bank; No. 3, dated the twenty-first

day of October, in the year of our Lord one thousand eight hundred and seven, drawn by the said John Reed as surviving partner of the said Standish Forde, deceased, in favor of Andrew Summers, for five hundred dollars, and by him indorsed to the Philadelphia Bank; No. 4, dated the fourth day of December, in the year of our Lord one thousand eight hundred and seven, drawn by Reed & Forde in favor of James Glentworth, for five hundred dollars, and indorsed by him and Daniel W. Coxe to the Trenton Banking Company; No. 5, dated the twenty-third day of October, in the year of our Lord one thousand eight hundred and seven, drawn by Reed & Forde in favor of James Glentworth, for five hundred dollars, and indorsed by him and Chandler Price to the Trenton Banking Company; No. 6, dated the thirtieth day of October, in the year of our Lord one thousand eight hundred and seven, drawn by Reed & Forde in favor of Andrew Summers, for five hundred dollars, and indorsed by him and James Glentworth to the Trenton Banking Company; and also to pay, satisfy, and discharge six several promissory notes drawn by Reed & Forde in favor of James Glentworth, bearing date on the third, sixth, sixteenth, twenty-fourth, and thirty-first days of October, and ye fourteenth day of November, in the year of our Lord one thousand eight hundred and seven, respectively, amounting in the whole to thirteen thousand five hundred and ninety-three dollars and forty-nine cents, and indorsed by him to the Union Insurance Company at Philadelphia, or the balance which may be due thereon upon a settlement of accounts between the said John Reed and the said Union Insurance Company of Philadelphia; and upon trust also to allow, pay, and satisfy unto Sarah Forde, widow of the said Standish Forde, deceased, all and every such reasonable sum or sums of money as shall be needful, and necessary, and sufficient for the support and maintenance of her, the said Sarah Forde, and the children of the said Standish Forde, deceased, for and during the term of four years next ensuing the date hereof, to be paid to the said Sarah Forde, in such proportions and such time or times as she, the said Sarah Forde, shall deem expedient and necessary for the purposes aforesaid; and after making the payments and satisfactions aforesaid, then upon this further trust, to retain for themselves and to pay to all and every the other parties who within six months from the date hereof, if residing in the United States of America, and within twelve months from the date hereof if residing elsewhere, shall have executed these presents of the third part, whether creditors of the said John Reed individually, or as surviving partner as aforesaid, the amount of their several and respective debts; but in case the same shall not amount to a sum sufficient for that purpose, then to make equal distribution among them, pari passu, without any preference or priority of payment whatsoever, and after making all such payments and satisfaction as aforesaid, if *there* shall remain any surplus of the said trust-moneys, then upon trust to pay the same to the said John Reed, his

executors, administrators, or assigns, and for the consideration aforesaid, the said John Reed hath made, ordained, nominated, constituted, and appointed, and by these presents doth make, ordain, nominate, constitute, and appoint the said Joseph Ball and William Page his true and lawful attorney and attorneys, irrevocably for him the said John Reed, and in his name or in the name or names of them, the said Joseph Ball and William Page, to ask, demand, sue for, recover, and receive of and from the several and respective persons whose names are mentioned in the second schedule hereinunder written or hereunto annexed, all and singular the said mortgages, bonds, bills, notes, debts, and other sum and sums of money, and upon receipt thereof or of any part thereof, good and sufficient receipts, acquittances, and discharges for the same to make, give, and execute, and upon failure, refusal, or nonpayment thereof, to commence and prosecute one or more action or actions, suit or suits, and proceed thereon in such manner as they, the said Joseph Ball and William Page, their executors, administrators, or assigns shall be advised and think expedient, and generally for him, the said John Reed, and in his name or in the names of them, the said Joseph Ball and William Page, to act and do in the premises as fully and effectually to all intents and purposes as he, the said John Reed, might or could have done if these presents had not been made, and the said John Reed doth hereby covenant, promise, declare, and agree to and with the said Joseph Ball and William Page, their heirs and assigns, that he, the said John Reed, his heirs, executors, and administrators, shall and will at all times hereafter, at the request but at the costs and charges of the said Joseph Ball and William Page, their heirs, executors, administrators, or assigns, make, do, and execute, or cause and procure to be made, done, and executed, all and every such further lawful act and acts, deed and deeds requisite and necessary for the better assigning, assuring and conveying the same lands, hereditaments, and premises unto the said Joseph Ball and William Page, their heirs, executors, administrators, and assigns in manner aforesaid, and according to the true intent and meaning of these presents. And this indenture further witnesseth, that in consideration of the assignment and conveyance hereinbefore made as aforesaid, they, the said Joseph Ball and William Page, and also the said several and respective creditors of the said John Reed, either in his individual capacity or as surviving partner of said Standish Forde, deceased, parties to these presents of the third part, do and each of them doth covenant, promise, declare, and agree to and with the said John Reed, his executors and administrators, by these presents, that they, the said Joseph Ball and William Page, and the said several and respective creditors of the third part, or either or any of them, shall not nor will at any time or times hereafter, for and during the term and space of four years next ensuing the date hereof, arrest, sue, vex, or implead the said John Reed, his heirs, executors, administrators,

or assigns, by any manner of writ, process, or attachment against his body, rights, credits, lands, tenements, or effects whatsoever, for or on account of any debt or debts, sum or sums of money, now due and owing or to become due and owing by reason of any transaction, matter or thing that has heretofore passed by him, the said John Reed, either in his individual capacity or as surviving partner of the said Standish Forde, deceased, to them or either or any of them; and if they or either of them should do so within the said term of four years, this covenant may be pleaded in bar to such suit.

And further, that they, the said Joseph Ball and William Page shall and will, out of the said trust moneys, well and truly allow, pay, and satisfy unto the said Sarah Forde, her executors and administrators, all and every such reasonable sum and sums of money as shall be needful, and necessary, and sufficient, for the support and maintenance of her, the said Sarah Forde, and the children of the said Standish Forde, deceased, for and during the term of four years next ensuing the date hereof, in such proportion and at such time and times as she, the said ———— shall deem expedient for the purpose aforesaid; and further, that the said Joseph Ball and William Page do hereby covenant, promise, and grant to and with the said John Reed that they will, at any time after the execution of these presents, upon the request of him, the said John Reed, give, grant and continue unto him, the said John Reed, as long as he shall conduct himself faithfully, their full power of attorney, constituting and authorizing him, their attorney, for them and in their names, and to the uses hereinbefore mentioned, to attend, to look after, and pay the taxes on the several tracts of land hereby assigned, and to ask, demand, sue for, recover, and receive of and from the several persons whose names are mentioned in the second schedule hereunder written, or hereunto annexed, all and singular the said mortgages, bonds, bills, notes, debts, and other sum and sums of money, and upon receipt thereof, or of any part thereof, good and sufficient receipts, acquittances and discharges for the same to make, give, and execute; and upon failure, refusal or nonpayment thereof, to commence and prosecute one or more suit or suits, action or actions, and proceed therein in such manner as the said John Reed shall be advised and think fit, and generally for them, the said Joseph Ball and William Page, and in their names, to act and do in the premises, as fully and effectually to all intents and purposes, as they themselves might or could do if they were personally present and acting therein; and further, that they, the said Joseph Ball and William Page, their heirs, executors, administrators and assigns, shall and will, out of the said trust moneys, well and truly pay and satisfy to him, the said John Reed, a reasonable compensation for his services in the premises; provided always, that nothing herein contained shall extend, or be construed to extend, to transfer, or pass away any estate, right, title, interest, property, claim, or

demand, of them, the said John Reed and Rachael, his wife, to which they, the said John Reed and Rachael, his wife, in right of the said Rachael, are entitled, under the will of Joseph Grainsberry, late of the said city of Philadelphia, taylor, deceased, bearing date the thirteenth day of November, A. D. one thousand seven hundred and eighty-three, and duly proved and recorded in the register's office for the city and county of Philadelphia, on the 22d day of October, 1796, of, in, and to, a certain house and lot of ground situate on the bank of the river Delaware, between High street and Chestnut street, in the said city, with its appurtenances, but that the same shall be and remain in the same situation, to all intents and purposes, as if this indenture had not been made.

In witness whereof the said parties to these presents have interchangeably set their hands and seals hereunto, the day and year first above written.

JOHN REED. [SEAL.]
RACHAEL REED. [SEAL.]
JOSEPH BALL. [SEAL.]
WILLIAM PAGE. [SEAL.]

Sealed and delivered in the presence of us,
ROBERT IRWIN,
JOS. MAGNARD.

City of Philadelphia, *ss.*

The seventh day of January, Anno Domini one thousand eight hundred and eight, before me, Robert Wharton, Esquire, mayor of the said city, came the above-named John Reed and Rachael, his wife, and acknowledged the above-written indenture to be their and each of their act and deed, and desired the same to be recorded as such, the said Rachael having been previously examined by me, separately and apart from her said husband, and on that examination declared the contents thereof to have been made known to her, and that same indenture was fully and voluntarily executed by her, without any threats or compulsion of her said husband.

In testimony whereof I have hereunto set my hand and [L. S.] caused the seal of the said city to be affixed, the day and year aforesaid.

ROBERT WHARTON,
Mayor.

The First Schedule to which the foregoing Indenture refers.

Sealed and delivered in the presence of us,
JOHN HUGHES, Jr.,
JOHN R. NEFF.

JOSEPH BALL, [SEAL.]
WILLIAM PAGE, [SEAL.]
SAMUEL POTTER & self, [SEAL.]
R. E. HOBART, [SEAL.]

ANDREW SUMMERS, [SEAL.]
JAMES GLENTWORTH, [SEAL.]
MONTGOMERY &
NEWBOLD, [SEAL.]
For balance, after deducting value of a lot held by William Montgomery, to secure any balance due to Montgomery and Newbold from Reed and Forde.

Sealed and delivered by
McEWING, HALE &
DAVIDSON,
JACOB S. WALTER,
GEORGE NUGENT,
PETTIT & BAYARD,
ROBERT IMLAY,
WILLIAM McILHENNEY,
ALEXANDER HENRY,
MATHEW L. BEVAN,
BENJAMIN WARE,
HENRY SPARKS,
PRATT & KINTZING,
CHARLES G. PALASKE,
McCARRACH & ORR,
HENRY HOLDSHIP,
Q. CAMPBELL,
DOCKERY SMITH,
JOHN LEAMY,
JOHN INSKEEP,
ARCHIBALD McCALL,
JOHN SAVAGE.
In presence of us,
JNO. R. NEFF, JNO. FRITZ.

CHAND PRICE, [SEAL.]
WILLIAM BETHELL, [SEAL.]
DANIEL VAIL, [SEAL.]
WILLIAM CANDON, [SEAL.]
ANN FORDE, [SEAL.]
For the Union Insurance Co., of Philadelphia,
GEO. LATIMER, [SEAL.]
President.
McEUEN, HALE &
DAVIDSON, [SEAL.]
Agent as respects indorsements of John Reed on a note of Andrew Summers, for three thousand dollars.
JACOB S. WALN, [SEAL.]
GEORGE S. NUGENT, [SEAL.]
For the Trenton Bk. Co.,
PEARSON HUNT, [SEAL.]
Cashier.
JOSEPH GRICE, [SEAL.]
PETTIT & BAYARD, [SEAL.]
ROBT. IMLAY, [SEAL.]
WM. McILHENNEY, [SEAL.]
ALEXANDER HENRY, [SEAL.]
For Alexander Henry & Co., and Clagg & Birshaus.

Sealed and delivered by
PEARSON HUNT,
In the presence of us,
C. W. ISRAEL, R. VANARSDALL.

MATHEW L. BEVAN, [SEAL.]
BENJAMIN WARE, [SEAL.]
H. SPARKS, [SEAL.]
Ex. to estate of R. B. Sparks.
PRATT & KENTZING, [SEAL.]
For Schuylkill & Susquehanna Navigation,
CHAS. G. PALESKI, [SEAL.]
Committee.
For Delaware & Schuylkill Canal Navigation,
CHAS. G. PALESKI, [SEAL.]
Committee.
McCURRACH & ORR, [SEAL.]
HENRY HOLDSHIP, [SEAL.]
Q. CAMPBELL, [SEAL.]
Cashier of the Phila. bank.

DOCKERY SMITH, [SEAL.]
For John Oliver and self.
JOHN LEAMY, [SEAL.]
For the Insurance Company of North America, [SEAL.]
JOHN INSKEEP, President.
ARCHIBALD McCALL, [SEAL.]
JOHN SAVAGE, [SEAL.]
For John Dungan and self.
THOMAS NEWMAN, [SEAL.]
ROBERT HAMILTON, [SEAL.]

Sealed and delivered by
THOS. NEWMAN.
In presence of
JNO. R. NEFF, JOHN HUGHES, Jr.

The Second Schedule to which the foregoing Indenture refers.

List of Property and Claims.

Thomas Laidley, bonds and notes secured by deeds trust on lands in Virginia,	$8,753 33
John Davis, bonds and notes secured by deed trust on lands in Virginia,	7,276 00
Abijah Hunt,	3,244 00
Jesse and Abijah Hunt,	2,533 00
Ab. Hunt, assigned by W. French,	2,717 00
James Wilkinson,	4,000 00
John Fry,	1,500
Thomas Pratt,	2,808
George Emlen,	1,500
James Yard and Ab. Dubois, for our adventure pr. schooner Lively,	1,600
Stewart Cumim estate,	2,000
Adv. for Occon to Teneriff,	700
" Neptune to St. Thomas,	700
Richard Dennis,	1,150
Will. P. Israel, for indorsement received, A. McCalla's conditional acceptance to pay when in funds,	3,250
	72,016 33
Balance sales advent. pr. ship Mount Vernon, consigned to William Ridge, Port au Prince,	3,321 53
Ditto advr. pr. ship Three Sisters,	537 48
Howard Allen, notes,	1,222 22
Robert Haines, Jr., druggist,	791 20
Jno. L. Faures,	500
John Mitchell, balance sales at Bordeaux,	3,000
Ditto for amount of bills of exchange drawn on the minister of marine at Paris, and admitted for payment, 22,043 livres,	4,082 75

David Ferguson account, and for balance debt due to the store at Natchez under his direction, estimated at $10,000, say one-half,		5,000
Daniel W. Coxe, Daniel Clarke, and Coxe & Clarke's accounts, estimated at least together, a balance of,		15,000
William French, balance consignments to Cape Francois, deducting transfer of R. Huest, $2717,		6,000
William Calhoun,		600
James Prince, for J. Buckley,		500
Thomas Billingston's estate,		600
Captain Simmons,		85
John McElwee,		500
George Sibbald,		13,000
Burgis Allison, for B. M. Biddle,		1,000
James Budden's estate,		300
Richard Lemmon's estate,		1,500
George Wilson,		800
Peter Bull,		220
John Lewis,		2,000
Artha Forde estate,		1,000
Clem. Biddle and R. Tillier's indorsements,		11,000
Henry Cuppen's estate,		8,500
Lamnan & West,		8,800
John Sanwich,		8,500
Charles Young,		3,150
Gardner, Rodman & Parker,		7,500
McClanahan & Moore,		15,150
John Maylan,		1,150
Robert Morris, for balance mortgage,		5,000
Morris and Nicholson's notes, 150,000,		3,000
Bass & Sayer,		10,000
Samuel Emory, for amount duties his to the U. States for bonds,		3,000
John James Mund, mortgage,	5,000	
Per balance account,	3,000	
		8,000
John W. Stanley,		1,089
John Kennedy,		7,000
William Lawrence,		400
Richard Ellis, for Banier Bell,		1,100
Robert Cochran's estate,		4,000
Aaron & John Kee Bond's balance,		700
Monsieur Beruelle,		180
Richard Stiles,		110
Samuel Salter,		1,000

Andrew Donnelly,		300	
Jacquet & Stedman,		200	
Dennis Manley,		100	
Thomas Annelly,		60	
Will Pastlethate,		130	
Bartle Still,		554	34
William Campbell,		60	66
Robins & Imlay,		304	50
		107,460	
Samuel Emery, balance account,		3,500	
Peter Bergen,		1,000	
Thomas Fitzsimmons, proportion of bond in suit in the hands of B. R. Morgan and Edward Tilghman, judgment obtained,		7,000	
Holmes, Henderson & Co., Baltimore,		14,000	
2500 ditto, including the Tygee Valley Falls Oar Bank, &c.,	5,000		
5500 ditto on Susquehanna, per deed 5000,	10,000		
Half farm at Green Castle,	400		
77 Campden County, Big Stittala river, State of Georgia, cost,	2,300		
107,000 South Carolina,	1,000	134,000	
		145,540	
1000 shares insurance by Federal City,	10,000		
27 Asylum shares, transferred to secure a debt of John Nicholson's for,	20,000		
206 canal shares, on which there has already been paid,	8,000		
One-half of eighteen acres of land, surveyed in the Canal Ground,	2,000		
One Nescopeck turnpike share,	116		
Two Lehigh Canal shares,	40		
Sleyter Cop'y,		1,500	
Jas. Greenleaf, of Zac. Coxe,		22,000	
Anth'y Butler,		12,000	
John M. Taylor,		3,600	
Samuel Sterrett,		1,837	50
Thomas Busan's estate,		500	
Caleb Copeland,		800	
Abner Claud,		803	
Two lots on Eighth street,	2,000		
Twenty-eight acres on Ridge and Turner's lane,	6,440		
Stock of store at Morgantown,	2,000		
Union Insurance Company shares,	1,000		

North American ditto, ...	100	
		11,540
Lots in the city of Washington, in company with Jos. Ball, 997,000 29 feet, cost $60,000 half, ...	30,000	
50,000 acres land in Kentucky, located in the year 1783, at 75 cts. per acre, . .	37,500	
50,000 acres in Pennsylvania, . . .	15,000	
In company Joseph Ball purchased, money and expenses paid, $12,000, half, . .	6,000	
268,000 in Virginia, exclusive of 10,000 acres sold Arch'd McCall & Co., at 20 cts. per acre; value this at half that sum, 10 cents, ...	26,800	
	41,000	
		220,563

From these no restitution is to be calculated upon.

Amount of Debts brought forward.

James Fearie fav. Felix Imbert, . . .		450
James Elliott, ...		1,150
Yeates & Pollock, ...		1,000
Delavinge & Cop'y, ...		1,036 50
Charles Roberson, ...		500
Philip Molan, ...		806
Henry Land, ...		1,200
William Crampton, ...		1,050
Joseph Wallace, ...		4,000
Joseph Whiting, ...		900
Mathias Slaugh's estate, ...		800
John Van Reed, ...		708
James Oellers, ...		320
Benjamin Thompson, ...		400
Isaac Irdman, ...		1,600
Matthew Randall, ...		381
Henry Brown, ...		100
William Chambers, ...		100
Ab'm Lindo, ...		181
One Delaware and Chesapeake share, . .	40	
Captured property, ...		401 96
Schooner Betsy, Captain Moore, balance cargo due by administratrix at Jackwell, as per account 100,167th, coffee, one-half is, .	10,000	
Brig John Butler, freight condemned at Porto Rico, ...	11,000	

Schooner Ulalia, at Cayenne, . . .	6,000	
Ditto Joby, at Jamaica, ...	6,000	
Brig Garo, plundered by the French, amount appealed for and admitted, . . .	827	
Coffee condemned at the More, . . .	1,000	
		34,827

From restriction, in whole or in part, may be expected:

Ship Thomas Wilson and cargo, condemned at Jamaica, but no restitution allowed, by neglect of entering appeal in due time. Cost, ...	20,000	
Schooner Betsy and Hannah, condemned at Dominica, cost, the recovery in like manner, received insurance on account, $8000 remaining, ...	8,000	
Schooner Mary and freight, condemned at Saint Bartholomew, ...	8,000	
Brig Molly and freight, at Port da Faix, .	5,000	
John Owen, ...		2,000
Nat. Babcock,, ...		106
John Mullen, ...		120
Samuel Bryson, ...		50
Lincoln, Cardigan & Cop'y, . . .		100
Jacob Piercy, ...		45
William Wiston, ...		50
		$515,489

True copy.

Test, JNO. A. SMITH,
Clerk.

City and County of Philadelphia, *ss.*

I, Albert D. Boileau, recorder of deeds, &c., in and for the said county, do hereby certify that the above and foregoing is a true and correct copy of a certain instrument of writing found of record in my office, in deed book J. C., No. 5, page 213, &c.

[SEAL.] In witness whereof I have hereunto set my hand and official seal, this fourteenth day of October, Anno Domini 1858.

ALBERT D. BOILEAU,
Recorder.

Per M. MYERS.

Exhibit No. 7, referred to in the foregoing Bill of Complaint.

In the Supreme Court of Pennsylvania, for the Eastern District.

And now, to wit, January 6th, 1841, in the matter of the estate of John Read, &c., on motion of Samuel H. Perkins, Esq., and on filing the petition of certain creditors of Read & Ford, signed by Wade T. Smith, Esq., the present assignee, and it appearing that no funds had come into his hands, the court, on his application, and with the assent of the said creditors, dismiss the said Wade T. Smith, Esq., from the said trust, and appoint Robert H. Smith, Esq., to be assignee and trustee of John Read, surviving partner of Standish Ford, in the place of the said Wade T. Smith, who was appointed in the place of William Page, surviving assignee of Joseph Ball, both deceased, who were assignees of the said John Read, to execute the provisions of an assignment made by the said John Read, surviving partner as aforesaid, and Rachel, his wife, to the said Joseph Ball and Wm. Page, dated 12th December, A.D. 1807, recorded in the office for recording deeds for the city and county of Philadelphia, in deed book I. C., No. 5, page 213, &c., on the 25th of September, A.D. 1809, and direct security in and approve of Charles Chauncy, Esq., as said security.

I hereby certify the foregoing to be a full, true, and accurate copy from the records of said Supreme Court, relating to the appointment of Robert H. Smith, Esq., as trustee in the aforesaid estate.

In testimony whereof I have hereunto set my hand and the
[SEAL.] seal of the said Supreme Court at Philadelphia, this sixth day of May, A.D. 1859.

J. F. BELSTERLING,
For ROBERT TYLER, Esq.,
Prothonotary.

And thereupon subpœnas issued, as prayed, and the cause was regularly continued until the 14th February, 1855, when court made the following order:

Order of Court.

ANDREW ROTHWELL and others
v.
GEORGE DEWEES, ANN ROTHWELL, and others.

In Equity in the Circuit Court of the District of Columbia.

It appearing to the satisfaction of the court that the defendant Ann Rothwell is the wife of the complainant Andrew Rothwell, by reason whereof she cannot, without the order of this court, appear and answer in this cause, it is by the court ordered, on motion of

the complainants, by their counsel, this 14th day of February, 1855, that the said cause be referred to the auditor of this court to take the answer and privy examination of the said Ann Rothwell, as to the subject-matter of the said bill, and report the same to this court.

By order of the court.

Test, JOHN A. SMITH,
Clerk.

And in pursuance of said order, the auditor made the following report:

Auditor's Report.

To the Honorable the Judges of the Circuit Court of the District of Columbia.

The subscriber, auditor of the said court, respectfully reports, that, in pursuance of the order of the 14 February last, he went to the residence of Andrew Rothwell in this city, on the 24th instant, and there took the answer of Ann Rothwell, wife of said Andrew, to the bill of said Andrew and others, being No. 832 on the equity docket; that he read the said bill to said Ann, and reduced her answer thereto in writing, which is herewith returned; that the whole was done upon privy examination of said Ann Rothwell, out of the presence and hearing of her said husband; and that she voluntarily signed and swore to said answer after the same was so written in the presence and before the subscriber.

W. REDIN,
Auditor.

24th April, 1855.

Answer of Ann Rothwell.

The answer of Ann Rothwell, wife of Andrew Rothwell, to the bill of said Andrew Rothwell, John A. Smith, and Henry Naylor, in the Circuit Court of the District of Columbia.

This respondent, answering said bill, admits that she is one of the daughters of the late William Dewees, and that the other defendants named in said bill constitute with her his heirs-at-law. She admits that he died intestate, and that her brother William is also dead intestate, and was never married.

She admits further, that she has heard her late father, in conversation with her mother, state that he had purchased certain lots in the city of Washington for taxes, and she has understood that her said husband and the other complainants have since purchased the said lots. But she has no knowledge of her late father having been agent for any one in relation to said lots; nor has she any personal knowledge of the other matters stated in said bill. She sub-

mits any interest she may have in the premises to the proper disposition or preservation of the court.

ANN ROTHWELL.

Sworn to by Ann Rothwell before me, this 24th day of April, 1855.

W. REDIN,
Auditor.

Answer of A. B. & M. Smith.

And said cause was regularly continued until the 29th April, 1856, when the solicitors, by Edward Swann, Esq., filed here the following answers and exhibits.

The joint and several answer of Archar B. Smith, and Mary Smith, two of the defendants to the bill of complaint of Andrew Rothwell, John A. Smith, and Henry Naylor, complainants.

These defendants, now and at all times hereafter, saving and reserving to themselves severally and respectively all and all manner of benefit and advantage of exception that can or may be had or taken to the many errors, uncertainties, insufficiencies, and other imperfections in the said complainants' said bill of complaint contained, for answer thereto, or unto so much thereof as these defendants are advised is material or necessary for them to make answer unto, these defendants, each answering for himself and herself, and not the one for the other, severally answering, says: That William Dewees, the elder, obtained from the corporation of Washington deeds for all the property mentioned in the said bill of complaint, except lot 4, in square 328, which was conveyed by the said corporation to Archer B. Smith, one of your respondents. That the said William Dewees departed this life on the 3d day of September, 1836, intestate, leaving George W. Dewees, Mary Smith, Ann Rothwell, wife of the complainant Rothwell, and William Dewees, his only heirs-at-law. These respondents admit that the said William Dewees has since died intestate and without issue, and that the whole estate of William Dewees, the elder, mentioned in the said bill, hath devolved upon the defendants, the said George, Mary, and Ann.

These defendants further admit, that an application was made on the law side of your honorable court for a division of the said real estate, with other property of the said William Dewees, the elder, and that such proceedings were had that a report is now before your honorable court for ratification, to which, for greater certainty, these respondents ask leave to refer.

These respondents further admit, that on the 14th December, 1796, Joseph Ball and Standish Forde purchased from Robert Morris a large amount of real estate in the city of Washington, and with it the property named in the said bill, as tenants in common, and

not as joint tenants. These respondents do not admit that the said Standish Forde was, at the time of his said purchase from Robert Morris, in business in Philadelphia as a copartner of one John Reed, or that the purchase so made by the said Standish Forde was made on account or with the funds of the said partnership; nor the alleged assignment of the said property to the said William Page by the said John Reed; these respondents, having no knowledge or information in the premises, except that the said Page is styled in some of the papers filed in this cause as assignee of Reed, surviving partner of Standish Forde, and that they have heard him so styled. And these respondents hold the said complainants to strict proof that the said William Page had any legal authority so to act, or that the said John Reed had any legal or equitable claim on the said property under or through the said Forde or otherwise. These respondents have no other information of the existence of the agency mentioned in the said bill, except such as has been obtained in conversations with the said Rothwell or others, and having no personal knowledge of the same, hold the said complainants to strict proof of the same.

That after the time of redemption of the said lots, purchased by the said Dewees at tax sales, had passed, they were deeded to him in his own proper name, except said lots conveyed at his instance to your respondent, Archer B. Smith, as aforesaid; and between said purchase and obtaining said deeds, went to great expense in improving some of said lots as his property, and claimed the same in his own right. That a note written by said Dewees to your respondent, Archer B. Smith, just before his death, and herewith filed as an exhibit, that the lot held by him was to be taken by your respondents as portion of their father's estate. These respondents further say, that after the said Dewees obtained deeds for the said property as aforesaid, no efforts or interference was made or heard of from the said William Page against the same, nor would any have been made at any time, as they believe, by any one, but for the interference of the said Rothwell, and the betrayal by him of the interest of these respondents, which was common with his own. These respondents further say, that if the said Page had any title to said property, he could have claimed and availed himself of the right to redeem the same; on the contrary, he did not redeem or offer to redeem it. These respondents also state, that the heirs of Standish Forde, at the time of the purchase of the said William Dewees, were all of age; that some of them at the time were residents of Washington city; that they had due notice that the said property would be sold for taxes; and afterwards of the purchase of the said Wm. Dewees, and full opportunity to redeem the same, and did not do it; that they were informed that the said William Dewees, when one part and another of the said property, bought by Ball and Forde as aforesaid, was from time to time being sold, or liable to be sold for taxes, did propose to some of the said heirs to buy in and redeem

the same, and that they declined or refused to do so; that the said heirs, being all of age, and having failed to redeem the property so purchased at tax-sale by said William Dewees, that they are therefore precluded and shut out from any right or in any manner to the same; and furthermore, these respondents are advised, that any claim under the heirs of the said Forde, could only be preferred in a court of law, and not a court of chancery. These respondents further state, that they have no knowledge whatever of the appointment by the Supreme Court of the Eastern District of Pennsylvania, or otherwise, of the said Robert H. Smith as assignee of the said John Reed, as alleged in the said bill, nor have they any knowledge of the alleged sale, stated in the said bill to have been made by the said Smith to the said complainant Rothwell, or of the consideration therefor; and they neither admit nor deny the said allegations, but require the same to be proved. These respondents further state, that even if the said William Dewees, their ancestor, had purchased the said property during the existence of an agency with the said Page, the said complainants have no equitable ground for an application to your honorable court, to decree your respondents trustees as to them. These respondents state, that at the death of their ancestor, the real estate of which he died seised, devolved upon the defendants, Ann, Mary, and George; the said Ann being the wife of the complainant Rothwell, who was thereupon seised in the right of his wife of one undivided interest with the other coparceners in the said property. These respondents show, that the said Rothwell, in violation of the interest of the family into which he had been introduced, by intermarriage with the said Ann, and availing himself of the opportunities afforded by his position, to search after defects in the title of the property, which had descended to your respondents and himself alike, as co-tenants, has, if the allegation of his purchase in the said bill be true, improperly attempted to betray the interest of your respondents for his own private advantage. These respondents state, that if the said Rothwell deemed a defect in the said title to exist, and that the same could have been quieted by the purchase of an outstanding interest, it was due, alike to justice and fair dealing with his co-tenants, to have allowed them to unite with himself in the said purchase, and participate in the advantage of it. These respondents show, that the said Rothwell has thus attempted unjustly to speculate on what he believed to be the infirmities of his co-tenant's title, and thus led your respondents into the position of having their title questioned in the present proceedings. They are assured, and verily believe, from the fact, that they have never heard of a claim, from any source, on the ground preferred in the said bill, that no claim would ever have been preferred, and none alleged, but for the unworthy attempt, on the part of the said Rothwell, to gain a private advantage at the expense of your respondents. They are advised, that a Court of Chancery

will not lend its countenance to the effect (effort) of one coparcener to betray the interest of his co-tenant, but that the purchase of any outstanding or other title will enure to the benefit of all; and that if the purchase alleged in the said bill has been made by the said Rothwell, and outstanding or other interest is thereby vested in him, it will enure to the benefit of your respondents as fully and completely as to the complainant Rothwell, and thus strengthen the estate of your respondents in the said property, they, in that event, would only be chargeable with their proportion of the purchase-money.

And your respondents aver, that they have no knowledge whatever of the transactions alleged in the said bill, between the said Rothwell and the said Naylor, or Smith, by which an interest in the said property is supposed to arise, and they do not admit the charges in the said bill in that behalf. These respondents further aver, that for a considerable time after their father's death, they were not made acquainted by said Rothwell with the fact, that he had been appointed agent, or that he had purchased any claims antagonistic to the united interest of the family, of which, in right of his wife, he was a coparcener.

And your respondents, having answered, pray to be hence dismissed, with their reasonable costs, and as in duty bound, will ever pray, &c.

ARCHER SMITH,
MARY SMITH.

EDWD. SWANN,
Sol. for Defts.

Henrico County, to wit.

I, John Nettles, a justice of the peace for and in the county aforesaid, do certify, that A. D. Smith, whose name is signed to the foregoing paper, personally came before me, in my county aforesaid, and on oath certified that the facts and declarations set forth in the within bill are true, so far as given upon his own knowledge, and so far as derived from the information of others he believes to be true, as given under my hand this 14th day of April, 1856.

JOHN NETTLES,
J. P.

State of Virginia, Henrico County, to wit.

I, John N. Harrison, clerk of the County Court in and for the county and State above mentioned, do certify, that John Nettles, whose signature, believed to be genuine, appears to the foregoing certificate, is, and was at the time of signing the same, a justice of the peace in and for the county and State aforesaid, duly commis-

sioned and sworn, and that all his official acts as such, are entitled to full faith and credit.

Given under my hand and seal of office this 14th day of April, 1856.

[SEAL.]

JOHN N. HARRISON,
Clerk.

District of Columbia, Washington County, to wit.

On this eighteenth day of April, 1856, before me, the subscriber, a justice of the peace in and for the county and district aforesaid, personally appeared Mary Smith, and makes oath, that the matters and things stated in the foregoing answers, as of her own knowledge, are true, as of the knowledge and information of others, she believes to be true.

J. H. GODDARD,
J. P.

Answer of George W. Dewees.

The answer of George W. Dewees, one of the defendants, to the bill of complaint of Andrew Rothwell, John A. Smith, and Henry Naylor, complainants, filed the 29th April, 1856.

This defendant, now and at all times hereafter, saving and reserving to himself, and all manner of benefit and advantage of exception that can or may be had or taken to the many errors, uncertainties, insufficiencies, and other imperfections in the said complainant's said bill of complaint contained, for answer thereto, or unto so much thereof as this defendant is advised is material or necessary for him to make answer unto, this defendant answers and says, that he adopts the facts and matters, and things stated in the answer of Archer B. Smith and Mary Smith, as his answer to the bill of complaint of Andrew Rothwell and others.

GEORGE W. DEWEES.

EDWD. SWANN,
Sol. for Defendant.

District of Columbia, Washington County, to wit.

On this 23d day of April, 1856, before me, the subscriber, a justice of the peace in and for the county and district aforesaid, personally appeared George Dewees, and makes oath that the matters and things stated in the foregoing answer as of his own knowledge are true, as of the knowledge and information of others he believes to be true.

J. H. GODDARD.

General Replication.

And thereupon, the complainants, by their solicitor aforesaid, file in court the following general replication:

These complainants, saving and reserving to themselves all and all manner of exceptions, &c., for replication to the answers of said defendants, saith, that they do and will aver, maintain, and prove their said bill to be true and sufficient in law to be answered unto by said defendants, and that the answer is very uncertain and insufficient in the law to be replied unto by the repliants, without that, &c. &c. Thereupon the said cause was regularly continued at rules, until the day of April, 1857, when a commission issued to Samuel Hood, Esq., on interrogatories and cross-interrogatories, and was returned on the 19th May, 1857, in words and figures following, to wit:

Commission to S. Hood.

District of Columbia, to wit.

The United States of America to Samuel Hood, Esq., No. 81 South 6th street, Philadelphia.

Know ye, that you are appointed commissioner to examine evidences in a cause depending in the Circuit Court for the County of Washington, in the District of Columbia, between Andrew Rothwell, John A. Smith, and Henry Naylor, complainants, and George Dewees, Mary Smith, Archer D. Smith, and Ann Rothwell, defendants.

Therefore you are requested, having first taken the oath hereunto annex, and also administered the annexed oath to the person whom you shall appoint as clerk to attend the execution of this commission, that at such time and place as to you shall seem convenient, you cause to come before you all such evidence as shall be named or produced to you by either the plaintiff or defendant, and that you examine them upon their corporal oaths, to be by you administered, on the Holy Evangely of Almighty God, touching their knowledge or remembrance of anything that may relate to the cause aforesaid, in reply to the interrogatories and cross-interrogatories hereto annexed, and that you cause notice to be *to be* given to the parties or their attorneys, of the execution of this commission, before you execute the same; and having reduced the depositions of the witness so taken by you into writing, you send the same, with this commission, closed under your hand and seal, to the judges of the said Circuit Court, with all convenient speed.

Witness the Honorable James Dunlop, Esquire, chief judge of the said court, the ninth day of April, in the year of our Lord one thousand fifty-seven.

[SEAL.]

Issued the 13th day of April, 1857.

JOHN A. SMITH,
Clerk.

sioned and sworn, and that all his official acts as such, are entitled to full faith and credit.

Given under my hand and seal of office this 14th day of April, 1856.

[SEAL.]

JOHN N. HARRISON,
Clerk.

District of Columbia, Washington County, to wit.

On this eighteenth day of April, 1856, before me, the subscriber, a justice of the peace in and for the county and district aforesaid, personally appeared Mary Smith, and makes oath, that the matters and things stated in the foregoing answers, as of her own knowledge, are true, as of the knowledge and information of others, she believes to be true.

J. H. GODDARD,
J. P.

Answer of George W. Dewees.

The answer of George W. Dewees, one of the defendants, to the bill of complaint of Andrew Rothwell, John A. Smith, and Henry Naylor, complainants, filed the 29th April, 1856.

This defendant, now and at all times hereafter, saving and reserving to himself, and all manner of benefit and advantage of exception that can or may be had or taken to the many errors, uncertainties, insufficiencies, and other imperfections in the said complainant's said bill of complaint contained, for answer thereto, or unto so much thereof as this defendant is advised is material or necessary for him to make answer unto, this defendant answers and says, that he adopts the facts and matters, and things stated in the answer of Archer B. Smith and Mary Smith, as his answer to the bill of complaint of Andrew Rothwell and others.

GEORGE W. DEWEES.

EDWD. SWANN,
Sol. for Defendant.

District of Columbia, Washington County, to wit.

On this 23d day of April, 1856, before me, the subscriber, a justice of the peace in and for the county and district aforesaid, personally appeared George Dewees, and makes oath that the matters and things stated in the foregoing answer as of his own knowledge are true, as of the knowledge and information of others he believes to be true.

J. H. GODDARD.

General Replication.

And thereupon, the complainants, by their solicitor aforesaid, file in court the following general replication:

These complainants, saving and reserving to themselves all and all manner of exceptions, &c., for replication to the answers of said defendants, saith, that they do and will aver, maintain, and prove their said bill to be true and sufficient in law to be answered unto by said defendants, and that the answer is very uncertain and insufficient in the law to be replied unto by the repliants, without that, &c. &c. Thereupon the said cause was regularly continued at rules, until the day of April, 1857, when a commission issued to Samuel Hood, Esq., on interrogatories and cross-interrogatories, and was returned on the 19th May, 1857, in words and figures following, to wit:

Commission to S. Hood.

District of Columbia, to wit.

The United States of America to Samuel Hood, Esq., No. 81 South 6th street, Philadelphia.

Know ye, that you are appointed commissioner to examine evidences in a cause depending in the Circuit Court for the County of Washington, in the District of Columbia, between Andrew Rothwell, John A. Smith, and Henry Naylor, complainants, and George Dewees, Mary Smith, Archer D. Smith, and Ann Rothwell, defendants.

Therefore you are requested, having first taken the oath hereunto annex, and also administered the annexed oath to the person whom you shall appoint as clerk to attend the execution of this commission, that at such time and place as to you shall seem convenient, you cause to come before you all such evidence as shall be named or produced to you by either the plaintiff or defendant, and that you examine them upon their corporal oaths, to be by you administered, on the Holy Evangely of Almighty God, touching their knowledge or remembrance of anything that may relate to the cause aforesaid, in reply to the interrogatories and cross-interrogatories hereto annexed, and that you cause notice to be *to be* given to the parties or their attorneys, of the execution of this commission, before you execute the same; and having reduced the depositions of the witness so taken by you into writing, you send the same, with this commission, closed under your hand and seal, to the judges of the said Circuit Court, with all convenient speed.

Witness the Honorable James Dunlop, Esquire, chief judge of the said court, the ninth day of April, in the year of our Lord one thousand fifty-seven.

[SEAL.]

Issued the 13th day of April, 1857.

JOHN A. SMITH,
Clerk.

Commissioner's Oath.

State of Pennsylvania, City of Philadelphia, *ss.*

You shall, according to the best of your skill and knowledge, truly, faithfully, and without partiality to any or either of the parties, take the examinations and depositions of all and every witness and witnesses produced and examined by virtue of the commission hereunto annexed, upon interrogatories now, or which may hereafter, before the said commission is closed, be produced to and left with you by either of the said parties: so help you God.

SAM. HOOD.

Sworn and subscribed before me, this twenty-fourth day of April, A.D. 1857.

WM. OGLE,
Alderman.

Clerk's Oath.

You shall, truly, faithfully, and without partiality to any or either of the parties in this cause, take, write down, and transcribe the deposition of all and every the witness and witnesses produced before and examined by the commissioner named in the commission hereunto annexed, as far forth as you are directed and employed by the said commissioner, to take, write down, and transcribe the said depositions or any of them: so help you God.

WILLIAM McDAID.

Sworn and subscribed before me, at Philadelphia, aforesaid, this 24th day of April, A.D. 1857.

SAM. HOOD,
Commissioner.

Complainants' Interrogatories.

In Chancery, in the Circuit Court of the District of Columbia.

Interrogatories.

HENRY NAYLOR, JOHN A. SMITH, and ANDREW ROTHWELL,
v.
ARCHER B. SMITH and MARY, his wife, ANN ROTHWELL, and GEORGE W. DEWEES. } No. 832.

Interrogatories to Robert H. Smith and Charles H. Wiltberger, witnesses on the part of the complainants in the foregoing entitled cause:

First. Where do you reside, and what is your occupation?

Secondly. Do you know either of the parties in said cause? and if either, which of them, and how long have you known them?

Third. Did you know Standish Forde and John Reed, merchants of the city of Philadelphia, and do you know whether they were or not ever partners in trade? and if yea, what knowledge have you on that subject?

Fourth. Do you know whether they, or either of them, is living? and if not, can you state which survived the other, and whether either of them died during the said copartnership?

Fifth. Did you know William Page, of the city of Philadelphia? and if yea, is he living? and if dead, when and where did he die?

Sixth. Have you any knowledge of the handwriting of said William Page, and if yea, how did you acquire such knowledge, and do you know his handwriting?

Seventh. Look at the two papers now shown to you, one purporting to be an agreement between William Page and William Dewees, the other purporting to be a power of attorney from said Page to said Dewees, both bearing date the 1st day of September, 1833, and state whether you are or not one of the subscribing witnesses to both of said papers? And if you recollect the fact of their execution, state all you do recollect on that subject.

Eighth. Have you or not any knowledge of the fact that the said William Page, at the time of the execution of the said papers, claimed to act, did act as assignee of the said John Reed? State all you know on that subject.

Ninth. Please to look at the two papers now shown to you, purporting to be letters written by said William Page to said William Dewees, dated respectively 22d Aug. 1833, and 4th Feb. 1836, and state in whose handwriting they are.

Tenth. Did you know William Dewees, who formerly resided in the city of Washington? Was he or not the same person who executed the said agreement with said William Page so as aforesaid witnessed by you?

Eleventh. Is the said William Page living or dead? If dead, please to state whether any person, and if any person, who, was appointed in his place assignee of said John Reed, and when?

Twelfth. Did you act as such assignee, and if yea, state whether you have any knowledge of the acts of said William Dewees in respect to the property in the city of Washington, which stood in the names of Joseph Ball and Standish Forde? State whether you had anything to do with said property, and what you did with the same.

Thirteenth. If you know any other fact tending to show that the said John Reed was in any way interested in said property, and that said Dewees acted under the said power of attorney and the said agreement, particularly if you find in the books of Reed and Forde any evidence to show that the purchase of the said property, which was made in 1797 or thereabouts, was on joint account of said Reed

and Forde; furnish true copies therefrom, and state all the facts within your knowledge relating to the matter aforesaid.

BRADLEY,
For Complainants.

The clerk will please to file the foregoing interrogatories, and serve a copy on defendant's solicitor.

BRADLEY,
Solicitor.

True copy. Test, JNO. A. SMITH.

Defendant's Interrogatories.—Cross-interrogatories.

In Chancery, Circuit Court of the District of Columbia.

HENRY NAYLOR, JOHN A. SMITH, and ANDREW ROTHWELL,
v.
ARCHER B. SMITH, MARY, his wife, ANN ROTHWELL, and GEORGE W. DEWEES. } No. 932.

The defendants in the above cause, saving and reserving to themselves all manner of exception to the interrogatories filed by the complainants, and to the admissibility thereof, and to the competency of one of the witnesses, Robert H. Smith, on the ground of interest (the complainants deriving their alleged title through him), as well as other and all manner of objection and exception to his said testimony, for and by way of cross-examination, submit and file the following cross-interrogatories:

1st. Are there any facts in your knowledge to induce you to say that Standish Forde and John Reed were partners in trade? Do you speak from facts or impressions; if from fact, what are they?

2d. If partners in trade, how long did said partnership exist, and what was the nature of the business in which they were engaged?

3d. If you have any knowledge that the property mentioned in the interrogatories-in-chief was purchased by Forde and Reed on partnership account, during the existence of said partnership, how did you obtain such knowledge?

4th. If the agreement and power of attorney, mentioned in the complainants' interrogatories, were executed by said Dewees, were they done in your *in your* presence? State all the particulars thereof.

5th. Did or not Mr. Dewees, to your knowledge, at some time previous to or about the time of his purchase of the lots in question from the corporation of Washington, inform or declare to Mr. Page, either in writing or verbally, that he considered that he had no right, title, interest, or claim to said property, and that no contract in relation thereto made by him would have any validity or binding effect in regard to the same? If such declaration was made in

writing, please produce the same; if lost or mislaid, state the contents.

6th. How did Wm. Page act as assignee of John Reed, if he did act as such, did he act as assignee in regard to the property held by Ball & Forde in Washington city?

7th. Do you know of any correspondence between said Wm. Page and Wm. Dewees relative to said property, if any agents on the part of the said Dewees ever existed? Have you not letters from the said Wm. Dewees to the said Wm. Page, written previous to or about the time of his purchase from the corporation of Washington, showing that he renounced all agency in respect thereto? If you have said letters from Wm. Dewees, please produce them; if not, where are they, and in whose possession; if lost or mislaid, state their contents, the substance and effects thereof.

8th. If the letters dated 22d August, 1833, and 4th February, 1836, filed in this cause, purporting to be written by Wm. Page to Wm. Dewees, are in fact the letters of the said Wm. Page, have you not letters written in answer thereto by the said Wm. Dewees in your possession; if not, where are they; if lost or mislaid, please state their contents.

9th. Did Mr. Dewees correspond with Mr. Page in regard to said property? If so, where is all his correspondence? What became of it? In whose possession is it? If you have it, please produce it.

EDWARD SWANN,
For Defendants.

True copy. Test, JOHN A. SMITH,
Clerk.

The execution of the within commission appears by the deposition of Robert H. Smith thereto annexed. The other witness, Charles H. Wiltberger, cannot be found by the commissioner.

SAMUEL HOOD, [SEAL.]
PHILADELPHIA, April 27, 1857. Commissioner.

Depositions of witnesses produced, sworn, and examined on the 24th day of April, A. D. 1857, at the office of Samuel Hood, No. 81 South Sixth street, in the city of Philadelphia, in the State of Pennsylvania, under and by virtue of a commission issued out of the Circuit Court of the District of Columbia, in a certain cause therein depending in chancery, wherein Henry Naylor, John A. Smith, and Andrew Rothwell are complainants, and Archer B. Smith, and Mary his wife, Ann Rothwell, and George W. Dewees are defendants.

R. H. Smith's Answers to Interrogatories.

Robert H. Smith, one of the above-named witnesses, being produced and sworn before the commissioner upon the Holy Evangelists, testifies as follows:

1st. To the 1st interrogatory he answers: I reside in Germantown, and am in no occupation at present.

2d. To the 2d interrogatory he answers: I am not acquainted, nor do I know any of the parties in said cause, except Andrew Rothwell, one of the complainants, with whom I have been acquainted since the early part of 1837.

3d. To the 3d interrogatory he answers: I have seen Mr. Standish Forde in his lifetime; and Mr. John Reed I knew, and became particularly acquainted with him early in the year 1818, which acquaintance continued until his death. They were merchants, in partnership in Philadelphia. I remember the firm of Reed & Forde. My particular acquaintance with Mr. Reed commenced about the early part of the year 1818, when I was appointed an agent on behalf of the creditors of John Reed, surviving partner of Standish Forde.

4th. To the 4th interrogatory he answers: Neither of them are now living; Mr. Reed survived Mr. Forde. The partnership between them was subsisting at the time of the death of Mr. Forde.

5th. To the 5th interrogatory he answers: I know William Page of the city of Philadelphia. He was a merchant, and died in Philadelphia in the early part of the year 1839.

6th. To the 6th interrogatory he answers: I know the handwriting of William Page, and have seen him write frequently.

7th. To the 7th interrogatory he answers: (Being shown two papers, marked by the commissioner (A) and (B) respectively, he answers:) I am one of the subscribing witnesses to each of said papers, both of which are in my handwriting, and I was present at the execution of them by William Page; and William Dewees executed paper marked (A), in my presence.

8th. To the 8th interrogatory he answers: At the time of the execution of said papers, William Page was surviving partner of Standish Forde.

9th. To the 9th interrogatory he answers: (Being shown papers annexed, marked by commissioner (C) and (D), respectively, he answers:) I have no doubt that they are both in the handwriting of William Page.

10th. To the 10th interrogatory he answers: I knew William Dewees, formerly of the city of Washington, having seen him in the city of Philadelphia. He was the same person who executed the agreement with William Page, and annexed, marked (A).

11th. To the 11th interrogatory he answers: William Page died, as already stated, in Philadelphia, in the early part of the year 1839; and Wade T. Smith was appointed assignee in his stead, about the 27th of April, 1839. Mr. Wade T. Smith resigned the assigneeship, and I was appointed in his stead, about the 12th of January, 1841.

12th. To the 12th interrogatory he answers: I did act as such

assignee. Mr. William Dewees died before the accomplishment of his above-mentioned agreement with William Page, which said agreement and letter of attorney refer to the said property in the city of Washington. After the death of William Dewees, William Page, by letter of attorney, dated 10th of April, 1837, appointed Andrew Rothwell of the city of Washington, agent, in the place of Mr. Dewees, as per letter of attorney annexed, marked (E), which being shown to witness, he says he is one of the subscribing witness thereto, and that the same was executed in his presence by the said William Page. The said Andrew Rothwell is one of the complainants in this cause, according to my understanding.

As assignee of John Reed, surviving partner of Standish Forde, I agreed with Andrew Rothwell, agent as aforesasd, for the consideration of seven hundred dollars, to release all my claim as assignee to the property in the city of Washington, claimed, as belonging to the estate of Reed and Forde under the assignment of John Reed as surviving partner. And Andrew Rothwell paid me the sum of seven hundred dollars on the 28th of March, 1846, which release was then executed accordingly. This sum was included among others in my account as assignee, filed in the proper office in Philadelphia, and duly audited, and the balance owing by me as reported by the auditor, was paid according to the directions in said report to John Miles, Esq., attorney for the parties so directed to receive it, on the 21st April, 1847. The above arrangements was made in order to close, if possible, the concerns of the estate, as great difficulties existed in making sales of the Washington property, and Mr. Rothwell took it subject to all its liabilities.

13th. To the 13th interrogatory he answers: I never had occasion to have access to the books of Reed and Forde; but John Reed, in the schedule attached to his assignment made December 12th, 1807, returned the Washington property as part of the partnership property thereby assigned; and afterwards, when he applied for the benefit of the insolvent laws at Philadelphia, the Washington property was returned, as having been previously assigned by him as partnership property, belonging to the firm. I believe, and have no doubt, that the said Dewees acted during his lifetime under the said letter of attorney from William Page and the said agreement.

R. H. Smith's Answer to Cross-Interrogatories.

1st. To the 1st cross-interrogatory, the said Robert H. Smith answers, as follows: The first knowledge I had of the existence of the firm of Reed and Forde, was from the fact their counting-house being in my youth nearly opposite to my father's dry-goods store and residence in Front street, between Chestnut and Walnut streets, Philadelphia; both Mr. Reed and Mr. Ford were living at that time. About the year 1817, I was employed as counsel to represent a large claim against said firm, which was the occasion of my undertaking

the agency. All my transactions, as agent, were founded on the fact of that firm having existed until dissolved by the death of Standish Forde, about the year 1805 or 1806, as I was informed.

2d. In answer to the 2d cross-interrogatory he says: I do not know when the partnership commenced, but believe it existed prior to the year 1797. They were engaged as merchants in the shipping business, and also in the purchase of large tracts of unimproved lands in the States of New York, Pennsylvania, and District of Columbia, the latter consisting of the lots in Washington city, referred to in answer to previous interrogatories; and tracts of land in the States of Virginia, Ohio, and Kentucky.

3d. In answer to the 3d cross-interrogatory he says: The Washington property was returned by John Reed in the schedule of his assignment, and also in his application for the benefit of the insolvent laws, as already stated in answer to the 13th interrogatory in chief. In addition to this, I was informed of the fact by Mr. John Reed himself.

4th. In answer to the 4th cross-interrogatory he says: To the best of my knowledge, belief, and recollection, the agreement and power of attorney, mentioned in complainant's interrogatories, was executed, the former by William Page and William Dewees, and the latter by William Page, both on the 18th of September, A.D. 1833, in my presence, and in the presence of John White, at my office, as city clerk, in the city of Philadelphia, being also the office of the said John White, then city commissioner of said city. I have, in my possession and now exhibit before the commissioner, a counterpart of the said articles of agreement.

5th. In answer to the 5th cross-interrogatory he says: I have no knowledge of any such information or declaration made by William Dewees to William Page, either in writing or verbally.

6th. In answer to the 6th cross-interrogatory he says: William Page acted as assignee of all the property assigned by John Reed, including John Reed's interest in the property in Washington city, held in the name of Ball & Forde.

7th. In answer to the 7th cross-interrogatory he says: The only knowledge I have of such correspondence, is from letters from the said William Dewees to the said William Page, placed in my hands by the said William Page in his lifetime, six in number, dated severally 28th of February, 1834, 23d of March, 1834, 23d July, 1834, 23d May, 1835, 22d January, 1836, hereunto annexed, marked respectively F., G., H., I., K., L.; the letter, marked (G), containing two enclosures, each of which is also marked (G). I have not any letters from William Dewees to William Page, renouncing his agency in said lands; nor do I know that any such letter ever existed.

8th. To the 8th cross-interrogatory he says in answer:

The only letters of which I have any knowledge from William Dewees to William Page, are those already referred to in my answer to the last preceding cross-interrogatory.

9th. In answer to the 9th cross-interrogatory, he says:

The only correspondence of Mr. Dewees with Mr. Page in regard to said property in my possession, or of which I have any knowledge, is contained in the six letters referred to in my answer to the 7th cross-interrogatory, and in the two letters from Mr. Page to Mr. Dewees, referred to in my answer to the 9th interrogatory in chief, dated respectively 22d August, 1833, and 4th February, 1836. If there be any other correspondence between them, I have no knowledge of it, and do not know what became of it, nor in whose possession it is. It is not in my possession.

ROBERT H. SMITH.

SAM. HOOD,
Commissioner.

The said witness, Robert H. Smith, after being duly sworn, was examined by the said commissioner, Samuel Hood, Esq., on the foregoing interrogatories and cross-interrogatories, and his answers thereto were taken and written down and transcribed by me, as I was directed by the said commissioner, and the said deposition was thereupon subscribed by him, the said witness.

WILLIAM McDAVID,
Clerk.

SAM. HOOD,
Commissioner.

Exhibit (A), referred to in the Deposition of Robt. H. Smith.

Agreement between William Page, of the city of Philadelphia, surviving assignee of John Reed, surviving partner of Standish Forde, of the one part, and William Dewees of Washington City, of the other part.

1. The said William Page, assignee as aforesaid, has this day, by letter of attorney under his hand and seal, appointed the said William Dewees his agent and attorney in fact, with full powers, for the purpose of taking charge of all the lots and pieces of ground in Washington city belonging to the estate of Reed & Forde, and of paying taxes, perfecting title, obtaining partition, and making sale of the same, and hereby agrees to allow to the said William Dewees, in consideration of the services to be by him performed in the premises, one-third of all moneys which may be received by the said William Dewees from the sale of the said lots, after first deducting from the said amount of sales all necessary advances made and other expenses incurred by the said William Dewees.

2. The said William Dewees, on his part, covenants and agrees to and with the said William Page, in consideration of the premises, that he, the said William Dewees, will take all means which may be in his power to effect sales of the said lots or pieces of ground, and

will, for this purpose, advance such sums of money as may be necessary to redeem such of the said lots which have been sold for taxes, in regard to which the purchasers at sales for taxes have not yet taken out their deeds, and will also, as far as practicable, make compromises with purchasers at sales for taxes, where such purchasers have paid the amount of taxes and purchase-money, and taken out their deeds, for which purpose the said William Dewees agrees to advance such sums as may be necessary: that he will advance and pay the amount of costs due in the suit of Netly Young's executors against Ball & Forde, on which a decree has been obtained in chancery at Washington in favor of the defendants; that he will also pay all sums which may be necessary to perfect the title to said lots, and obtain partition of the same with the heirs of Joseph Ball, deceased, with whom they are now held by the estate of Reed & Forde as tenants in common, and will prosecute such proceedings to effect; that he will advance and pay all taxes which may hereafter become due on said lots, so far as the same can be recovered, prior to the sales which he may make of the same, and will also advance and pay all other charges and expenses which may be necessary in order to effect sales of said lots; provided that the said William Dewees is to be at liberty to apply, for the purpose of such necessary expenses and taxes, such sums of money as may now be in the hands of the treasurer of Washington city to the credit of the estate of Reed & Forde, as the purchase-money on lots which it is now too late to redeem, and in regard to which it may be impracticable to make compromises with the purchasers; and finally, that the said William Dewees will well, and with all diligence and fidelity, fulfil all the purposes of his said agency, and make sales of the said lots as soon as practicable, and on the most advantageous terms in his power, for cash, or if on credit, taking sufficient and good security, and on the receipt of any moneys from the said sales, that he will, after deducting his advances and necessary expenses, and one-third of the net proceeds remaining, as a compensation for his services, faithfully pay over the balance to the said William Page; and that he will from time to time keep the said William Page fully advised and informed of all his proceedings in the premises. And to the faithful performance of the above articles of agreement, the above-named parties do hereby bind themselves, their executors and administrators, by these presents, sealed with our seals, dated at Philadelphia, this eighteenth day of September, A. D. one thousand eight hundred and thirty-three.

WILLIAM PAGE, [SEAL.]
Surviving Assignee, &c.
W. DEWEES. [SEAL.]

Sealed and delivered
in presence of
ROBERT H. SMITH,
JOHN WHITE.

Exhibit B., referred to in the Deposition of Robt. H. Smith.

Know all men by these presents, that William Page, of the city of Philadelphia, surviving assignee of John Reed, surviving partner of Standish Forde, do hereby constitute and appoint William Dewees, of Washington city, my true and lawful attorney for me, and in my name and on my behalf to take and exercise the general charge of all those lots or pieces of ground in said Washington city, which belong to the estate of Reed & Forde, whereof I am assignee as aforesaid, and to take all such steps as he, the said William Dewees, may judge to be proper and necessary for the purpose of rendering the said lots or pieces of ground available to the creditors of the said estate of Reed & Forde, for which purpose I do hereby empower the said William Dewees to receive all such sums of money which may be due to the said estate, as the purchase-money paid on sales of the said lots for taxes, and to give receipts for the same, to redeem any part of the said lots which may have been sold for taxes, to institute and prosecute to effect any legal proceedings which he may find necessary to perfect and establish the title to the said lots, and to make partition of the same with the heirs of the late Joseph Ball, with whom the said lots have been sold as tenants in common, to make compromise with any persons who may have purchased the same at sales for taxes; to sell the said lots or any part thereof, for such price as he, the said William Dewees, shall judge proper; to execute a deed or deeds in my name on such sales, which deeds, however, shall not contain any other warranty of title, than a special warranty that I have not done any acts to incumber or alienate the said property; to take such security as he, the said William Dewees, may deem proper for such payments as may remain on credit on said sales; to receive and give receipts in my name for all payments on said sales; to employ an attorney or attorneys at law in any legal proceedings which may be necessary to perfect title or to obtain partition; and generally to do all other acts which may be necessary in the premises for me, as fully as I could do were I personally present. And I do hereby revoke and annul all other letters of attorney whatsoever, heretofore granted by me to any person or persons whatsoever, in relation to the said lots or pieces of ground in Washington city.

In witness whereof I have hereunto set my hand and seal at Philadelphia, this eighteenth day of September, in the year of our Lord one thousand eight hundred and thirty-three.

WILLIAM PAGE, [SEAL.]
Surviving Assignee of John Reed, Surviving Partner of Standish Forde.

Sealed and delivered
in presence of
ROBERT H. SMITH.
JOHN WHITE.

City of Philadelphia, *ss.*

On the eighteenth day of September, A.D. 1833, before me the subscriber, mayor of the city of Philadelphia, personally came William Page, the constituent named in the foregoing letter of attorney, and then and there declared the same to be his act and deed, and desired it might be recorded as such.

[SEAL.] Witness my hand and the seal of the said city the same day and year.

JNO. SWIFT,
Mayor.

Exhibit C., referred to in the Deposition of Robert H. Smith.

PHILADELPHIA, 22d August, 1833.

WM. DEWEES, Esq.

Sir: I have before me your letter of the 15th instant. I will be much obliged to you if you will procure and send to me a list of the lots in Washington city standing in the names of Reed & Forde, as I have not any particulars of them; and, on receipt of it, I will determine about paying the taxes on such as have not been paid by the purchasers of the sale in November, 1830. The $63 you have paid I understand to be on account of Reed & Forde, and I presume the receipt is such. If there are any lots in the name of Reed & Forde alone, be pleased to particularize them. Cannot that sum of 2 or 300 dollars in the city treasury, to the credit of Ball & Forde, be got at for the purpose of paying the taxes? You probably are aware that there is a suit in chancery respecting these lots, which makes it rather difficult to determine whether it would be beneficial or not to the estate of Reed & Forde to pay the taxes. I am surprised Mr. Standish Forde has not paid a continuance of attention to them, as when I last saw him he spoke of them as an item of importance to the estate. If any mode could be adopted to get a deed as purchaser at the sale for taxes in 1830, it would, I should think, give a full title for the benefit of the estate of Reed & Forde. But I am very uninformed upon these matters. I should have replied to your letter sooner, but I generally consult one person who represents a large interest in the estate of Reed & Forde on matters relating to it.

I remain yours, very respectfully,
WILLIAM PAGE.

Exhibit D., referred to in the Deposition of Robert H. Smith.

PHILADELPHIA, 4th February, 1836.

WM. DEWEES, Esq.

Dear Sir: Your favors of the 23d May, 1835, and 22d ultimo, are before me. I would have acknowledged the receipt of the first

earlier, had any part of it required a reply, or had I had anything to say worth communicating. You say in yours, 23d May, you thought in November following you could get the property in such a situation (by means of a sale for taxes) that we could make a sale, if anybody would purchase. In yours of the 22d ultimo, you do not notice this matter; perhaps you were not able to accomplish it.

I note that you have paid an additional sum of $200 for taxes on the 21st ultimo. I should be very glad if a sale could be effected of some of the property at a fair rate, that you might be reimbursed your advances, receive something for your trouble, and that I may receive something on account of the estate. It appears to me I cannot comply with your desire in agreeing to give you a deed for square 383, or any part of it; it would be at variance with an agreement, which is, that you are to be allowed (first deducting all necessary advances made) one-third of all the moneys which may be received from the sale of the lots, not that you are to have one-third of the lots. I would most cheerfully do anything you wished in the affair that I should conceive myself safe in doing, or not being liable to be found fault with for by the creditors of Reed & Forde. I hope, now that all expectations of war France are at an end, that Congress will afford the relief to Washington city you speak of immediately, if not do more than that, which probably would cause the attention of speculators and others to the purchase of property there, and enable you to effect sales at good prices. I could wish before concluding a sale finally, you would inform me what lots you are about to sell, and at what price. The only list I have of Ball & Forde's lots is one from an advertisement in a newspaper of taxes due, which you inclosed to me in your letter of the 23d March, 1834. If you can furnish me any other particulars, I will thank you for them.

Yours, very respectfully,
WILLIAM PAGE.

Exhibit E., referred to in the Deposition of Robert H. Smith.

Know all men by these presents, that I, William Page, of the city of Philadelphia, merchant, surviving assignee of John Reed, surviving partner of Standish Forde, have constituted and appointed, and by these presents do constitute and appoint, Andrew Rothwell, of the city of Washington, in the District of Columbia, to be my true and lawful attorney, for me and in my behalf, and in my name and stead, to take all such steps as may be necessary to perfect title, obtain partition, and make sales of certain lots and squares in the city of Washington aforesaid, belonging to the estate of Reed & Forde; and further, to settle the account of the said estate of Reed & Forde with the heirs and representatives of the late Col. Wm. Dewees, of Washington city, deceased, former agent of the said

estate, and to prosecute any judicial proceedings which may be necessary in the premises, the whole of the expenses in relation to his said agency to be advanced by the said Andrew Rothwell, and to make sales of said lots and squares at such prices as he may be able to obtain for the same; and I do hereby ratify and confirm all that my said attorney may lawfully do in the premises as fully and effectually as if I were personally present and consenting thereto.

Witness my hand and seal at Philadelphia aforesaid, this tenth day of April, in the year of our Lord one thousand eight hundred and thirty-seven.

WILLIAM PAGE, [SEAL.]
Surviving Assignee of John Reed, surviving Partner of Standish Forde.

Sealed and delivered
in presence of
ROBERT SMITH,
HENRY WILLIAMS.

City of Philadelphia, *ss.*

On the eleventh day of April, in the year of our Lord one thousand eight hundred and thirty-seven, before me the subscriber, mayor of the city of Philadelphia, personally came William Page, the constituent in the above letter of attorney, and acknowledged the same to be his act and deed, and desired it might be recorded as such.

[SEAL.] Witness my hand and the seal of the said city the same day and year.

JNO. SWIFT,
Mayor.

Exhibit F., referred to in the Deposition of Robert H. Smith.

WASHINGTON, 28 Feb. 1834.

DEAR SIR:

I duly received your letter of the 25th inst. I should not have permitted so long a period as 3 months to pass, had I have had any particular information to communicate, and more particularly if of an agreeable kind; but nothing whatever having taken place as regards the lots, except the payment of the taxes, and knowing you would be well assured that I would not neglect that point, I remained quiet. I have now advanced upwards of 400 dollars of my own funds for the taxes of the years 1831, '32, and '33, and you will perceive there is again due for the year 1833 about 250 dollars more. It is not, however, absolutely necessary to pay the tax at present. You inquire of me if Standish Forde did not execute a power of attorney to Mr. Cox. I answer that he did; but if he was merely your attorney, and obtained no vested interest thereby, his power of course was revoked by the subsequent one made by you to

myself. I apprised Coxe some months ago that I was acting for the estate. You may readily suppose, in the present state of affairs, that it would be impossible to sell property in this place on any terms, for the same cause as exist everywhere else; but more particularly we are all of us here waiting the action of Congress on our money concerns, that is to say, our canal and Dutch debt, and a reduction of our insupportable taxes, and until it is known what that body will do, everything here remain in statu quo. I expect to see you in Philadelphia in 4 or 5 weeks, when I shall fully lay before you my proceedings.

Very respectfully yours,

W. DEWEES.

WM. PAGE, Esq.

P. S. In a former letter stated to you, that there was a decree in the court here, in a suit in which Dockery Smith and others were plaintiffs, for the sale of R. and Forde's part of the property, that F. Key was named the trustee, to sell and bring the money into court for further order. This, I presume, was a mere amicable arrangement, and had only for its object to subject Forde's interests as well as Reed's to the payment of the joint debts. I think Mr. Smith, your attorney, so informed me; I should like to know, however, if this possibly effect any difficulty on your and my part, if Key should at any time see proper to proceed under the decree. I presume, however, that the proceeding was only intended to rest in you as the assignee of Reed, Forde's part also, which could not regularly pass by Reed's assignment to you.

Exhibit G., referred to in the Deposition of Rob't H. Smith.

WASHINGTON, 23d March, 1834.

DEAR SIR:

I wrote to you about two weeks ago, in answer to a letter you sent to me a few days previous, but I entered into very little detail about our business, as I said to you that I intended shortly to see you in Philadelphia; but things move on so very strangely here, and everything so terribly deranged everywhere, that I do not think it worth while to go on at present, but will wait the moving of the waters; this being the case, I am going to give you the state of our affairs here more at length. You will perceive by the inclosed, that we have got into conflict with that d——d rascal, Greenleaf, as he is universally called here, and although in himself perfectly despicable, yet from his connection with others of more consequence, he has for many years back, and still continues to inflict most serious injuries on the people here, particularly the poorer class, and having no property, justice cannot reach him. My answer annexed to his letter will explain our relative position, and a sketch, in the form of an account current, will best explain our money concern.

Dr. Wm. Page, Esq., assignee, &c.

To cash advanced by Dewees, for the taxes and expenses on lots, previous to the years '30 and '31, . .	$236 00
do do '31 and '32, . .	464 00
	$700 00
	177 00
Bal.,	$523 00

With W. Dewees, att'y in fact. Cr.

By a moiety of funds in the city treasury, put in for lots sold, ...	$177 00

There is now due for the year 1833, the sum of 220 dols., which, if were paid, would enlarge the sum advanced by me to something over 700 dollars.

This being the state of the case, and it being impossible to tell what the future may produce, more particularly as regards this city if the nation does not step forward to its relief, is inevitably ruined. It is now known, that its debt amounts to more than 1,700,000 dollars; the interest of which alone exceeds its income upwards of 30,000 dollars annually, although the inhabitants for the last two years have paid more than 20 per cent. on the income of their property! and $\frac{1}{3}$ at least of the unimproved property sold for taxes and unredeemed. You may remember when I was appointed your agent the whole of the property had previously been sold for taxes, and more than two years had elapsed, yet from the *provisional* payments I voluntarily made at that period, the purchasers did not take out their deeds, and the instant I arrived here in September last, after my arrangements with you, I paid into the city treasury the whole arrear, and more recently, as stated above, the further sum of $464 00, for the years '31 and '32; but at the sale made in November, 1830, bids had been made for lots 2, 3 and 4 square (*torn*), about 600 dollars, and I believe the purchasers would *now* pay that sum for them, if permitted by us to take out their deeds. My question to you now is, had we not better do so? *I submit the case entirely to you.* The circumstance, that the property being undivided, the difficulty and expense of a partition, and the particular state of things, would seem to indicate the proceedings as a proper one, and more particularly as these lots are by no means the most valuable. One word, as to the subject I wrote to you about in my last letter. That was to know whether the proceedings instituted here by the canal companies, and D. Smith, and upon which the decree is made, whereby Forde's property, if made liable for the joint debts of R. & Forde, are in their nature *adverse*, or only that they were adapted as the legal mode of getting

at this property, and subject it to the assignment made by deed to you, but of course intended to operate on separate, as well as joint estate. I ask the question for the obvious reason, that if really *adverse*, there appears to me, that these plaintiffs would have the general control of this property under the decree, and would thus far abrogate the agreement between you and me. I have not said a word to Key about it, nor shall I, until I hear from you. It would give me much pleasure to hear from you, on both these points, as early as possible.

Very respectfully,

W. DEWEES.

WM. PAGE, Esq.

P. S. I think Mr. Smith could tell accurately the nature of these proceedings, and their true bearing; Mr. Key is the trustee under the decree to sell the property, and "to bring the money into court for further order, and the creditors of R. & Forde to be notified to bring in their claims." As a very strong argument why the bidders at the sales might take out their deeds, and thus a sum of 600 dollars be refunded to me, is the view that there would still be left of the estate of Ball & Forde upwards of 450,000 feet. If, therefore, about 30,000 feet would produce 600 dollars, what would the former quantity amount to, the greater part of which is more valuable? Lot No. 1, in this square, was sold in 1827, under the agency, as I suppose, of L. Forde, and has long been forfeited.

Exhibit G., referred to in the Deposition of Rob't H. Smith.

CITY OF WASHINGTON, March 14th, 1834.

SIR:

I presume, by your communication to me, regarding certain property in this city (rec'd by the letter-carrier the last evening), that you are entirely unaware of the real state of the title to the property in question, and of the several existing claims thereto, now pending in the chancery courts; to the records and archives of which you had better refer, and to interpose, if judged proper, the claim of the assignees of Messrs. Reed & Forde; the property has remained in my possession, among divers other property, from its first conveyance to me in 1794, and to whomsoever it may be finally decreed, whether to those for whom I act, or to others, it will be surrendered by me when duly required.

I am respectfully, sir, your ob't servant,

JAMES GREENLEAF.

W. DEWEES, Esq.

(Extract from advertisement of tax sales printed.)

Ball & Ford,	328	2	$4 63	$6 20	$9 10	$19 93
		3	4 63	6 20	9 10	19 93
		4	7 71	10 34	15 16	33 21
	383	Ept.	34 15	45 74	67 08	146 97

Beginning at the southeast corner of the square, running thence westwardly with the line of Virginia avenue 443 feet 10 inches, thence north parallel with 10th street west, to the north line on S. 13 street, thence east with said line to the northeast corner 413 feet 11 inches, thence south with the line on 9th street, east 320 feet 1 in. to the place of beginning.

467	all	$22 08	$29 56	$43 36	$94 90
471	all	18 91	25 32	37 14	81 37
west of 471	all	3 94	5 28	7 74	16 96
					413 27

SIR: In consequence of the suggestion in your answer to my note, that I might not fully understand all about the title, &c., in the archives of the *courts* not *court* of chancery for this city, and knowing who I had to deal with, I have now to inform you that I have again examined into this business, and find that you have not *now*, nor *ever* had for a period of more than 6 months any claim to any part of the property in question. If there is or can be any validity in any deed or transfer that bears your name, then, sir, you have twice parted with this property for a valuable and full consideration, and that more than 35 years ago. But if your act or acts is to have no effect according as you manage matters, I imagine the judgment of the court will not be so easily got over, and evaded by you, which in my turn I would also invite you to examine.

Your obedient servant,

Signed W. DEWEES.

J. GREENLEAF.

Exhibit H., referred to in the Deposition of Robt. H. Smith.

WASHINGTON, 23 July, 1834.

DEAR SIR:

In my last letter to you some months ago, I told you I would wait the movements of Congress, and then inform you of anything material which might occur. I have now only to say to you, that Congress made an appropriation of $130,000 for the erection of a bridge across the Potomac, and also the further sum of $70,000 to pay one year's interest on the Dutch loan to keep the city out of the hands of the Hollanders, the inhabitants here being absolutely disabled to

raise the money by additional taxation, now enormous, as you know, from the terrible amounts you and I have paid for the lots of B. & Forde, myself having now advanced 672 dollars, and a further sum will be necessary at the end of the year, of about 400 dollars more. My last letter asked your advice about the sale of a lot, which was purchased by a Mr. R. Leckie for taxes, before my agency, for a sum of 200 dollars, whether it would not be advisable not to have redeemed it, and let him have had it. I did agree that he should have it after receipt of your letters, but he is now dead, and nothing was done. I therefore paid in the money, and so the matter stands. Whenever anything worth communicating shall occur, I will inform you of it.

Very respectfully yours,
W. DEWEES.

WM. PAGE, Esq.

P.S. I do not believe that a particle of property in this city, improved or unimproved, would sell for cash at ¼ of its value; this is greatly owing to the enormous debt of the corporation of 2,300,000 dollars, a sum of more than 100,000 dollars for interest.

Exhibit I., referred to in Deposition of Robt. H. Smith.

WASHINGTON CITY, 23 May, 1835.

DEAR SIR:

It is now several months since I wrote to you. I waited the winter, during the session of Congress, to see what they would do towards the relief of this unfortunate city, borne down with its debts, and destroyed by the mismanagement during a long series of years, most of which may be traced to putting the "sovereign people," and who possessed no property, at the head of affairs here, and by a few other designing knaves. The Senate passed a bill for 70,000 dollars, towards the relief of the place; this it was supposed would have given some relief, and would probably have tended towards a diminution of taxes, but the House of Representatives did nothing in the business. As regards B. & Forde's lots, they are of course as yet safe. I wrote to you that I was about 500 dollars in advance. There are now at least $500 more due for the year 1833 and 1834, saying nothing about the present year; how this is to be paid, I know not; it is utterly impossible to sell any unimproved property, or get money from any of the banks, even admitting we could give a title. Several of the heirs of Mr. Ball have called on me within the last six months; to some I have shown the lots, and advised them to come forward; but I have heard nothing of them since. In November next I think I can get the property in such a situation (by means of a sale for taxes), that we could make a sale, if anybody would purchase: we could then give the tax title in addition to the legal one; this would strengthen the case. As re-

gards the major part of the squares, that notorious wretch, Greenleaf, being in possession, gets a nominal rent from two or three persons who cultivate the ground. I have not thought as yet that it was worth while to try to alter this position; for even could I get possession, still he could take away his fences, and then matters would remain as they now are. I shall keep you advised of everything material that turns up; in the mean time I should be glad to hear from you.

Very respectfully,
W. DEWEES.

WM. PAGE, Esq.

Exhibit K., referred to in the Deposition of Robt. H. Smith.

WASHINGTON, 22 January, 1836.

DEAR SIR:

I wrote to you 5 or 6 months ago, on subject of my agency, about the lots of Ball & Forde, under our agreement of September, 1833, but received no answer; perhaps you thought the subject not very pressing, but it appears to me it now demands your attention. Yesterday I returned from the City Hall here, and paid an additional sum of 200 dollars for taxes; this makes the amount total I have paid, under that agreement, about 900 dollars, paid for taxes and arrearages of taxes, but it is not all yet paid. I will not repeat, nor attempt to point out to you the melancholy condition of *unimproved* real estate here. It may be sufficient to say, that the city is in debt more than two millions, and have only a revenue upon a most extravagant assessment (more than triple what it would bring at a sale) of about 50,000 dollars. It is now said, however, that Congress will at this session, take from the shoulders of this corporation, above 1,400,000 dollars; if so, no doubt property would rise. I am waiting for this. I believe I gave you a list of the property in the name of Ball & Forde, as advertised for sale for taxes, when I was in Philadelphia; if I did not, and you request it, I will send you another. I have lately, at some expense, about 100 dollars, inclosed lot No. 383, and built a small house for a gardener, being tired to see the property totally abandoned, and in possession of Greenleaf. This I have taken, of course, into my own possession, as I would do more of the squares, if I thought it advisable to improve them; that is to say, in gardens and trees, &c., but at the moment, things look too gloomy.

I am entitled, as you know, under our agreement of 1833, to the one-third of B. & Forde's part of the lots after being reimbursed my advances. I now ask you whether you have any objection that I should take my portion of it, one of square 383, which I have fenced, and mean to plant in trees, &c., and to this end you would make me a conveyance for that portion. In other words, instead of taking

my portion out of all the squares, you would let me have my part in one place; it would benefit me; and I do not see it would injure you or the creditors. I do not think this part is more valuable, foot for foot, than any other parts of the property, certainly not nearly as much so as lot west of 471, which is a water lot. Let me beg of you to let me hear from you on this point, or any other that may occur to you. If you should consent to give me a release, I will send a copy of a deed for you to execute.

Very respectfully, your ob. ser't.,

W. DEWEES.

WM. PAGE, Esq.

Exhibit L., referred to in the Deposition of Robt. H. Smith.

WASHINGTON, Feb'ry 5, 1836.

DEAR SIR:

I have written to you within the last six months twice on the subject of the lots under my charge, under an agreement of 4 September, '33, to neither of which letters, have I heard from you. In my last letter I gave you a succinct account of my agency, the general prospects of the city affairs here, the prospect of sales, &c. &c. &c., that I have as yet made no sales of any part of the property, but that I had hoped this session of Congress would do something to mitigate the enormous burthen on account of taxes, and then perhaps the things would look up a little.

I have now paid about 700 dollars for taxes, and 200 dollars more must be paid in two or three months from this time, or the property will again be subjected to sale. In my last I had requested you to say whether you had any objection to let me take my proportion of the property under the agreement in any one place; that this would be advantageous to me, on account of improvements, if I made any, fencing the property, or improve it in any other way; that square 383, for instance, I should like to inclose for a garden, or as a lot for grass; that I did not think it was more valuable than some other parts of the property, indeed not so valuable as some other squares; that this square contained about 100,000 feet, one half of which belonged to R. & Forde, would be 50,000 feet, and my proposition, under our contract, about 17,000 feet, and that if you agreed to this I would send you on a form of a deed for you to execute, together with a copy of the surveys of the different squares, if you have not already got them. I wish much to hear from you on this point, as well as others generally, and to have your opinion on the subject in general.

Very respectfully,

W. DEWEES.

WM. PAGE, Esq.

And said cause was continued until the 8th May, 1858, when Robert S. Forde, by Messrs. Chilton & Magruder, his solicitors, filed in court the following petition.

Petition of R. S. Forde.

To the judges of the Circuit Court of the District of Columbia in chancery sitting.

The petition of Robert S. Forde respectfully represents:

That your petitioner is interested in a certain suit, now pending and undetermined in this court, wherein Andrew Rothwell and others are complainants, and George Dewees and others are defendants, and which is known on the chancery docket as No. 832. He begs leave to refer to the bill, answers, exhibits, &c., as showing the interest of the heirs of Standish Forde, deceased, in and to the squares and lots lying in the city of Washington, therein referred to, which form the subject of said suit. Your petitioner is himself a descendant, the grandson of the said Standish Forde, being the son of John B. Forde, deceased. He would represent that his ancestor, Standish Forde, in whom was vested one moiety (with Joseph Ball, who held the other moiety) of the real estate in said bill and proceedings mentioned, died some time in the year 1806, leaving (besides his widow, who since died) surviving him as heir-at-law the following named children, viz., Margaret L. Smith, Ellen Hansel, Anne Forde, Standish Forde, Jr., Mary F. Poor, and John B. Forde. Of these, as your petitioner is advised, and as stated in said bill, the first five named have conveyed by deed all their title, right, and interest in and to the Ball & Forde property in Washington city to the plaintiffs in said suit. The interest, however, of the other child, viz., John B. Forde, was never acquired by said plaintiffs. He, said John B., departed this life in the year 1840, intestate, and without having ever aliened his undivided sixth part of the moiety aforesaid, and left surviving him two infant children, namely, your petitioner and his sister, Emily Forde; the latter has since died under age and intestate, and her brother, your petitioner, has inherited her portion, so that your petitioner is entitled, in his own right, to one undivided sixth part of the original moiety of Standish Forde in said real estate. Now it so happens, as your petitioner would further represent, that the interest of your petitioner, and even his existence and that of his father, seems to have been overlooked and ignored by the said plaintiffs in the presentation of their claim in the said bill, a result which has arisen probably from the fact that your petitioner resided in the State of Kentucky, was of tender years, and was in his minority, at the time the plaintiffs bill was filed. He is recently of full age, within months past, and now asks that he may be made a party to these proceedings, and may have his legal and equitable rights and interests respected and protected in any decree which

the court may make in the premises. In the statement of his interest in the suit, your petitioner has proceeded on the supposition that his ancestor, Standish Forde, deceased, was the sole owner of the undivided moiety of the city lots and squares acquired under the deed of conveyance from Robert Morris to Ball & Forde. It is suggested in the said bill that John Reed, of Philadelphia, was an equal partner with said Standish Forde in the said purchase from Morris, and consequently that the real extent of the interest of Forde's heirs therein is not one-half, but one-fourth part, in which case the interest of your petitioner in the subject would be one-sixth of a fourth instead of one-sixth of a half. Your petitioner has not been able so far to find any sufficient proof, certainly none is yet filed in the cause, to establish the fact that the said property was the partnership property of Reed & Forde, or that John Reed had any share or interest therein. If the court should be satisfied, on the final hearing, that the said real estate in Washington was (the moiety) the partnership property of Reed & Forde (a fact which this petitioner by no means admits), of course he would be entitled to his proper share therein; and in the event of said Reed having no interest therein, but the same being the sole property of Standish Forde, your petitioner asks that his share may be preserved and adjudged to him. Your petitioner being ignorant, from his tender age, of any personal knowledge on the subject, cannot undertake to say whether the said property was the partnership property of Reed & Forde, or the sole property of Standish Forde. He has always heard and been informed, however, in the family, that his ancestor, Standish Forde, was the sole owner with Jos. Ball of the said property. It is well known in the family of said Standish Forde, and among his descendants, that he was in his lifetime largely interested in the purchase of real estate in the States of Virginia, Pennsylvania, Georgia, and Kentucky, as well as in the District of Columbia; that he took up, by land warrants obtained from the proper offices in said States, large tracts of land; that sometimes these lands were bought and entered in his own separate name, and sometimes as a partner with others. The land books of the State of Virginia alone (as the abstract from the register's office at Richmond, filed herewith, marked Exhibit A.) show that land grants and patents were issued to him in his individual name to the amount at one time of 79,989 acres; at another to the amount of 38,998 acres; at another to the amount of 35,450 acres; at another to the amount of 10,400; and at several times subsequently to the additional quantity, in the aggregate, of 71,236 acres; and to Reed and Forde to the amount of 20,000; to Forde & Hanaway to the amount of 1500 acres. A reference to the same document (Exhibit A.) will show that patents were issued in the same State to John Reed, individually, to the amount of 91,944 acres. From this it is manifest that Reed & Forde held lands in large quantities, both separately

and jointly, and it is not to be inferred that because they were in partnership at one time in a mercantile establishment at Philadelphia, they were therefore interested jointly in all other or in their land purchases, including this purchase by Ball & Forde from Robert Morris in Washington city. It is certainly a circumstance of some significance bearing on the question of their partnership interest in these District lands, that they always stood on the tax-books in the name of Ball & Forde, and although Reed is represented to have survived Forde many years, he or his representatives after him never took steps to obtain a partition of said lands and separation of his interest from Forde's. Your petitioner has been informed and believes, that the said William Dewees, Sr., acted as agent for the owners of the said property of Ball & Forde, whoever they were; that his correspondence, as well as the evidence filed in the cause by the plaintiffs, abundantly proves that he was the trusted agent and attorney of the parties to preserve the property to them, to pay the taxes, to take the general oversight of it, and especially to protect it from forfeiture and sale for the non-payment of taxes; and he is advised that while said Dewees held this fiduciary relation to the parties claiming the property, it was not competent for him to acquire any valid title by a sale of the subject itself for the non-payment of taxes. That such a proceeding would be wholly inequitable and against good conscience, and that his heirs or alienees, who are the defendants in the suit, cannot stand on any better footing than their ancestor; that no lapse of time or possession can render valid a transaction originally tainted with fraud, and consequently that the present holders of the property claiming under said Dewees are to be treated as trustees holding the said property for the benefit of those to whom or to whose ancestors the said Dewees stood in the attitude of an agent and fiduciary. That the said Dewees, in his character as agent of Smith, the trustee or assignee of Reed, surviving partner of Reed & Forde, represented the interest of said Forde's heirs in said property, and consequently that his purchase, while holding that position, was no more binding on them (Forde's heirs) than on the heirs of John Reed. Your petitioner therefore unites in the prayer of said bill, that the said pretended conveyance by corporation deeds to said Dewees for the said property, so illegally bought by him for taxes, may be set aside as fraudulent and void; that your petitioner may be admitted to share in the partition of said property, according to the measure of his interest therein, and that such other and general relief may be granted to him as shall be consistent with equity and good conscience. And your petitioner, as in duty bound, &c.

ROBT. S. FORDE.

CHILTON & MAGRUDER,
Solicitors.

Exhibit (*A.*), *referred to in the Petition of Robert S. Forde.*

Patents in the name of Standish Forde, recorded in Grant Book

S.,	page	81,	Acres	7,700
"	"	82,		10,000
"	"	84,		4,000
"	"	85,		2,492
"	"	86,		4,000
"	"	87,		4,000
"	"	123,		4,100
No. 10,	"	687,		300
10,	"	688,		1,000
13,	"	627,		1,000
13,	"	629,		200
13,	"	630,		1,370
13,	"	632,		1,000
13,	"	633,		432
13,	"	635,		262
13,	"	636,		1,000
13,	"	640,		4,000
14,	"	88,		5,000
14,	"	288,		1,000
14,	"	291,		1,000
18,	"	292,		1,000
18,	"	689,		4,982
18,	"	690,		6,581
18,	"	691,		3,568
18,	"	692,		3,568
18,	"	693,		3,595
18,	"	694,		2,838
		Total acres,		79,989

Not Numbered.

Patents 26, 27, 25, 23, 24, 21, 16, 15, 19, 18, 12, 14, 13, 1, 7, 9, 10, 2, 5, 8, 3, 6.

23 patents for 1000 acres each.—Book 27, page 84, 85, 86, is,	23,000
No. 28, 20, 11—3 patents, 666 acres each,	1,998
No. 19, 17, 7, 22, 21, 16, 2—7 patents, 2000 acres each,	14,000
	38,998

No. 23, 6000 acres			No. 12, 1000	Book 27, pages 87 and 132.
4, 1000 "			5, 2000	
10, 600 "			11, 1000	
1, 2000 "			14, 5000	
18, 20, 4000 "	2000 each,		15, 2000	
24, 3000 "			3, 2000	
9, 1000 "			8, 1000	
13, 3850 "				
		Acres,		35,450

Grant book 2, page 364, for 2000 acres.
" " " 365, 8000
Grants issued to Messrs. Ford & Reed, acres 10,000.
Page 2 an original.

Forde and Hamway.

Patent No. 4, book 27, page 134, 500 acres			
1, " 27, " 135, 500 "			
5, " 27, " 137, 500 "			
	Acres,		1500

Standish Forde.

No. 17, book 28, page 31, 1000 acres.			
" 34, " 307, 1400 "			
" 35, " 298, 1000 "			
" 35, " 299, 1000 "			
" 36, " 15, 6000 "			
	Acres,		10,400

Patents No. 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, book 43, page 401 and 420.
Pages No. 401 and 420—16 tracts of 1061 acres each, all in book 43—16,976.
S. Forde, 1 tract, page 547, book 43, 260 acres.
S. Forde, book 45, page 135, 25,000 "
25,260

Patents No. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29.
29 patents, for 1000 acres each, to S. Forde, recorded book 44, page 336 and 373, 29,000

Patents to Reed & Forde.

Book 2, page 554, for 1000 acres			
561, " 1000 "			
562, " 1000 "			
564, " 1000 "			

565, for 1000 acres
567, " 1000 "
568, " 1000 "
576, " 1000 "
623, " 1000 "
626, " 1000 "

Acres, 10,000

VIRGINIA LAND OFFICE, RICHMOND, Oct. 6th, 1853.

I certify that the above list embraces all the patents that appear to have been issued from this office to Standish Forde, and to Reed & Forde jointly.

(Signed) S. H. PARKER,
Reg. Land Office.

Page 3 on original. No. 2.

Patents to John Reed.

Patents in the name of John Reed, recorded in grant book, and page 352, Acres, 400.

To John Reed recorded, book S., pp. 129 and 135.

1000 acres each,		2,000
do.	Book W., page 101, . . .	200
"	" 104, . . .	680
"	" 107, . . .	1,087
"	" 109, . . .	300
"	" 117, . . .	300

27 patents, No. 3, page 436 to 479.

439, 40, 42, 43, 45, 47, 48, 50, 52, 53.
455, 57, 59, 60, 62, 64, 65, 67, 69, 70.
472, 74, 75, 77, 79, 1000 acres each, . . 27,000

31,967

No. 3, page 480,	. . . . .	1,200
" " 183,	. . . . .	600
" " 482,	. . . . .	1,200
" " 644,	. . . . .	240
No. 5, " 355,	. . . . .	656½
" " 620,	. . . . .	6,000

No. 8, page 265, 266, 268, 269, 270, 271, 272, 274, 276, 277,
10 tracts, 2000 acres each, ... 20,000

Page, 278,	1,200
" 280,	800
" 281,	1,200
No. 9, page 15,	2,000
10, " 572,	1,400
11, " 1,	2,000
11, " 2,	1,214
11, " 3,	2,000
18, " 370,	400
21, " 532,	10,000
22, " 554,	1,000
27, " 133,	1,180
29, " 160,	158
11, " 482,	137
All the above are to be found in grant book in Richmond,	
No. 28, page 346,	392
Read & Gist, 23, 427,	3,000
Read & Owings, 23, 505,	2,000
Acres,	91,944½

VIRGINIA LAND OFFICE, RICHMOND, October 6th, 1853.

I certify that the above list contains all the patents that appear to have been issued from this office to John Reed.

(Signed) S. H. PARKER,
Reg. L. Office.

Second Commission to S. Hood.

And said cause was continued regularly until the 12th October, 1858, when the second commission issued to Samuel Hood, Esq., on interrogatories, and was returned on the 25th October, 1858, in the words following, to wit:

District of Columbia, to wit.

[SEAL.] The United States of America to Samuel Hood, Esq., greeting, No. 81 South 6th street, Philadelphia:

Know ye, that you are appointed commissioner to examine evidences in a cause depending in the Circuit Court for the County of Washington, in the District of Columbia, between Andrew Rothwell, John A. Smith, and Henry Naylor, complainants, and George Dewees, Mary Smith, Archer B. Smith, and Ann Rothwell, defendants.

Therefore you are requested, having first taken the oath hereunto annexed, and also administered the annexed oath to the person whom you shall appoint as clerk to attend the execution of this commis-

sion, that at such time and place as to you shall seem convenient, you cause to come before you all such evidences as shall be named or produced to you by either plaintiff or defendant, and that you examine them upon their corporal oaths, to be by you administered, on the Holy Evangely of Almighty God, touching their knowledge or remembrance of anything that may relate to the cause aforesaid, in reply to the interrogatories and cross-interrogatories hereto annexed, and having reduced the depositions of the witnesses so taken by you into writing, you send the same, with this commission, closed under your hand and seal, to the judges of the said Circuit Court, with all convenient speed.

Witness the honorable James Dunlop, chief judge of the said court, the 11th day of June, in the year of our Lord one thousand eight hundred and fifty-eight.

[SEAL.]

Issued the twelfth day of October, 1858.

JNO. A. SMITH,
Clerk.

Bradley.

Commissioner's Oath.

Commonwealth of Pennsylvania, City of Philadelphia, *ss.*

You shall, according to the best of your skill and knowledge, truly, faithfully, and without partiality to any or either of the parties, take the examinations and depositions of all and every witness and witnesses produced and examined by virtue of the commission hereunto annexed, upon the interrogatories now, or which may hereafter, before the said commission is closed, be produced to and left with you by either of the said parties: so help you God.

SAM. HOOD.

Sworn and subscribed before me, this 19th day of October, A.D. 1858.

WM. OGLE,
Alderman.

Clerk's Oath.

You shall, truly, faithfully, and without partiality to any or either of the parties in this cause, take, write down, and transcribe the depositions of all and every the witness and witnesses produced before and examined by the commissioner, Samuel Hood, named in the commission hereunto annexed, as far forth as you are directed and employed by the said commissioner, Sam. Hood, to take, write down, and transcribe the said depositions or any of them: so help you God.

WILLIAM McDAID,
Clerk.

Sworn and subscribed this 19th day of October, A.D. 1858, before me.

SAM. HOOD,
Commissioner.

Complainants' Interrogatories.

ANDREW ROTHWELL and others
v.
The heirs at law of WILLIAM DEWEES.

Interrogatories on the part of complainants to Robert Smith, John W. Claighorn, and others.

First. Did you know John Reed and Standish Forde, in the city of Philadelphia, or either of them? If yea, which of them, and when did you first know him or them?

Second. Do you know whether the said John Reed and Standish Forde were in partnership in the said Philadelphia at any time? and if yea, at what time? State how you know it, and all of the facts tending to show such partnership which have come to your knowledge?

Third. Do you know any facts in relation to certain real estate in the city of Washington, standing in the name of Ball & Forde, tending to show that Reed & Forde were jointly interested in said property? if yea, please to state all the said facts within your knowledge tending to show that fact?

JOSEPH H. BRADLEY,
For Complainants.

True copy. Test,

JOHN A. SMITH,
Clerk.

Defendants' Interrogatories.

Cross-interrogatories on part of Defendants.

ANDREW ROTHWELL and others
v.
GEORGE W. DEWEES and others.

The defendants in the above cause, saving and reserving to themselves all manner of exceptions to the interrogatories filed by the complainants, and to the admissibility and competency of one of the witnesses, Robert H. Smith, on the ground of interest—the complainants deriving their alleged title through him—as well as all manner of objection and exception to the said testimony, for and by way of cross-examination, submit and file the following cross-interrogatories:

First. Please discriminate, in your answers to the above interrogatories, between what you know in regard thereto of your own knowledge and your sources of knowledge, and what you have derived by information from others?

2d. State your position and relation to this cause, subject-matter thereof, whether you have any interest therein, and what interest; or any interest in its result, and what?

3d. If you were acquainted with John Reed and Standish Forde, when was it? State the time and circumstances and nature of your acquaintance, and what was your age when you first became acquainted with them?

EDW. SWANN,
For Defendants.

April 30th, 1858.

True copy. Test,

JNO. A. SMITH,
Clerk.

The execution of the within commission appears in a certain schedule hereunto annexed. The witness, Robert H. Smith, named in the caption of the interrogatories in chief, died, in the city of Philadelphia, a few weeks before the commission came to *to* hand.

SAM. HOOD,
Commissioner.

PHILADELPHIA, 19th October, A.D. 1858.

Depositions of witnesses produced, sworn, or affirmed, and examined, on the 19th day of October, A.D. 1858, at the office of Samuel Hood, Esq., the commissioner, in the city of Philadelphia and State of Pennsylvania, by virtue of a commission issuing out of the Circuit Court for the County of Washington, in the District of Columbia, to the said Samuel Hood, Esquire, directed for the examination of witnesses in a certain cause depending in said court, wherein Andrew Rothwell, John A. Smith, and Henry Naylor, are complainants, and George Dewees, Mary Smith, Archer B. Smith, and Ann Rothwell, defendants.

Claghorn's Answers to Interrogatories.

John W. Claghorn, of the city of Philadelphia, gentleman, aged sixty five years, or thereabouts, being produced, sworn, and examined on behalf of the complainants, Andrew Rothwell, John A. Smith, and Henry Naylor, deposeth as follows:

First. To the first interrogatory on the part of the said complainants, he answers as follows:

I was acquainted with John Reed some few years previous to his

death, which occurred on the 2d of April, 1834. I was never acquainted with Standish Forde.

Second. To the second interrogatory on the part of the said complainants, he answers as follows:

John Reed and Standish Forde were copartners in trade, under the firm of Reed & Forde. They were in business together for many years, in the city of Philadelphia. The connection between them continued till the death of Mr. Forde, in the year 1806.

I know these facts from the books and papers in my possession, such as bank-books, journals, ledgers, letter-books, &c., belonging to the firm of Reed & Forde, and also as administrator of the estate of the said John Reed, deceased.

Third. To the third interrogatory on the part of the said complainants, he answers as follows:

The firm of Reed & Ford were concerned and interested in a tract of land in the Federal City, now the city of Washington, standing in the name of Joseph Ball and Standish Forde, containing about nine hundred and ninety-seven thousand (997,000) square feet.

I derive my knowledge of this from the sources mentioned in my answer to the second interrogatory, and from the inventory of the estate of Reed & Forde, rendered to Joseph Ball and William Page, assignees of John Reed, December 12, 1807.

First. To the first cross-interrogatory on the part of the defendants, he answers as follows:

All the facts stated by me in my answers to the second and third interrogatories in chief have been derived from the sources therein mentioned, and not from the hearsay information of others.

Second. To the second cross-interrogatory on the part of the defendants, he answers as follows:

Not being a party in this cause, and being unacquainted with its subject-matter, I do not know of any interest I have in its result.

Third. To the third cross-interrogatory on the part of the defendants, he answers as follows:

I refer to my answers to the first interrogatory in chief. At the time of Mr. Reed's death I was forty-five years old.

JNO. W. CLAGHORN.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this eighth day of October, A.D. 1858.

SAM. HOOD,
Commissioner.

And the said cause was regularly continued until the 31st day of May, 1859, when the court made the following order:

Order of Court.

ANDREW ROTHWELL et al.
v.
GEORGE DEWEES et al.

It is ordered, this 31st May, 1859, that this cause be referred to the auditor, to ascertain the proportion of the $700 of the complainant Rothwell's purchase, properly chargeable on the lots in controversy between complainant and defendant; the whole purchase being valued, and the lots in controversy valued, and the proper proportion thus ascertained; and when so ascertained, to charge each of the heirs of Dewees with their proper share of the proportion of said $700 chargeable on the lots in controversy, so that the case may be ready for decree against the defendants for the share each is to pay; the court being of opinion, after argument of the case, that Andrew Rothwell, in the purchase made by him of the lots in controversy, is a trustee for himself and wife, and the other heirs of the deceased, William Dewees. It is further ordered, that the petition of Robert S. Forde be dismissed.

By order of the court.

Test, JOHN A. SMITH, Clerk.

And said cause was regularly continued until the October term of 1859, when the auditor made the following report and additional report:

ANDREW ROTHWELL and others
ag'st
GEORGE W. DEWEES and others. } No. 832.

Pursuant to the order of the 31st May last, I gave notice to complainants and defendants, who attended before me; the complainants in person, and by J. H. Bradley, Esq., their counsel, and the defendants by Edward Swann, Esq., their counsel. Wm. B. Todd was examined on the part of the defendants, as to the value of the lots and squares; his deposition is returned. The counsel of the respective parties agreed upon 1846 (the year of A. Rothwell's purchase) as the period for the valuation of the lots and squares. I find, upon the testimony of Mr. Todd, and report the value in that year of the squares No. 467 and 471 to have been $7319, one moiety of which said Rothwell then purchased, equal to $3659 50; of lots No. 2 and 4, in square No. 328, $1516 35; of the part of square No. 383, described in the corporation deed to Dewees, $8538 89, and of square west of square No. 471, $1072 80; making an aggregate of $14,787 54; among which the $700 paid by said Rothwell is to be distributed; that the portion thereof to be borne by the moiety

of the squares 467 and 471, not in controversy, is $173 37, and by the other squares and lots in controversy, $526 63; and that $175 54, one-third of the latter sum, is chargeable to each of the defendants, George Dewees, Mary the wife of A. B. Smith, and Ann the wife of A. Rothwell, as heirs of said W. Dewees. A claim was made for taxes paid by A. Rothwell. The direction to me is, however, specific, to apportion the $700 only; and I am bound to understand that the court considered that matter; and, the defendants' counsel refusing to enlarge the order, I declined to entertain the claim.

Respectfully submitted,

W. REDIN,
Auditor.

28th Sept., 1859.

Auditor's Additional Report.

Since the preceding report was made, the complainants have requested an alternative statement. They conceive that they are entitled to have contribution as the whole of the sums paid by them in acquiring the titles to the lots in controversy, viz., not merely the $700, but also the amount paid by them to Messrs. Hansell, Standish, Forde, Ann Forde, Poor, and Smith, as heirs of Standish Forde, and also the taxes which they have paid since owning the property. The consideration expressed in the deed is nominal merely; Mr. Bradley states in his deposition that the real consideration paid was $3000. The taxes paid since the acquisition of the property amount to $1113 90. The sums paid for purchase-money relate to the whole property, as well that claimed in this suit as that which is not. The taxes apply exclusively to the lots claimed in this suit. I have complied with the complainants' request, and present this alternative statement. The value of the whole property is $14,787 54. The sum paid for the purchase of the whole is $3700, and the proportion thereof to be borne by the moiety of the squares No. 467 and 471 is $916; and by the lots and squares in controversy, $2784; the taxes, $1113 90, added thereto, present an aggregate of $3897 90, chargeable to the heirs of Dewees; and the share of each of the three, George, Mary Smith, and Ann Rothwell, will be $1299 30.

Lots No. 1, 2, 3, 4, 5, 27, and 28, in square No. 383, appear to have been sold since the acquisition of the property.

W. REDIN.

Filed November 16th, 1859.

And thereupon, with the consent of the parties, by their solicitors aforesaid, the said cause was set for hearing on the bill, answers, exhibits, replication, depositions, and auditors' reports, and said

cause was, with the consent of the parties, continued until the next term of said court.

And now, to wit, on the third day of January, in the year 1860, came again into court here, as well the said complainants as the said defendants, by their solicitors aforesaid, and thereupon, with the consent of said parties, the auditor filed his additional report as follows, to wit:

Auditor's Additional Report.

February 21st, 1860.

The court having decided that the said Andrew Rothwell is entitled to be repaid the taxes paid by him upon the premises claimed in this suit since his acquisition of the same, but that he is not entitled to the moneys paid for the acquisition of the interest of Forde and others therein: the share to be paid in the said $700 and the $1113 90; the taxes, by said George Dewees, is the sum of $546 84; by said Mary Smith, the sum of $546 84; and by Ann Rothwell, a like sum of $546 84.

Filed 23d February, 1860.

W. REDIN,
Auditor.

And the said cause coming on to be heard, the court made the following decree:

Decree of the Court.

ANDREW ROTHWELL et al.
v.
GEORGE W. DEWEES et al.
No. 832. Equity.

This cause coming on to be heard at this term, and thereupon, upon consideration thereof, it is, this 29th day of February, 1860, ordered, adjudged, and decreed by the court, that the bill of complaint in this cause, as to the complainants Naylor and Smith, be and the same is hereby dismissed. It is further decreed that the complainant Andrew Rothwell, in the purchase made by him from Robert H. Smith, by deed dated 27th day of March, 1846 (a copy of which is filed as Exhibit in this cause), of the lots in controversy mentioned in the said bill, to wit, lots numbered two (2), and four (4), in square numbered three hundred and twenty-eight (328); that part of square numbered three hundred and eighty-three (383), as described in and conveyed to William Dewees by deed from the corporation of Washington to him, dated August 29th, one thousand eight hundred and thirty-six (1836), and the whole of square marked square west of square numbered four hundred and seventy-one, is trustee for himself and wife, and other heirs of the said William Dewees, and that the interest so purchased by him in the said lots in

controversy inure to the use and benefit of the heirs of said William Dewees, in the proportion in which they derive interest as heirs of the said William Dewees in the same. And it is, this 29th day of February, 1860, further adjudged, ordered, and decreed, that each of the heirs of the said William Dewees pay to the said Andrew Rothwell the amount ascertained by the auditor on the principles stated in the former order of reference to him, to be payable by each of the said heirs to the said Andrew Rothwell, as their proportion of the purchase-money paid by the said Andrew Rothwell for the interest purchased by him, chargeable on the said lots in controversy, and of the taxes thereon paid by him, to wit, the sum of five hundred and forty-six $\frac{84}{100}$ dollars, with interest on one hundred and seventy-five $\frac{54}{100}$ dollars thereof, from the 27th day of March, one thousand eight hundred and forty-six (1846), to be paid by George W. Dewees; the sum of five hundred and forty-six $\frac{84}{100}$ dollars, with interest on one hundred and seventy-five $\frac{54}{100}$ dollars thereof, from the 27th of March, one thousand eight hundred and forty-six (1846), to be paid by Mary Smith, the wife of Archer B. Smith; and the sum of five hundred and forty-six $\frac{84}{100}$ dollars, with interest on one hundred and seventy-five $\frac{54}{100}$ dollars thereof, from the 27th of March, one thousand eight hundred and forty-six (1846), to be paid by Ann Rothwell, the wife of Andrew Rothwell; and it is further ordered that the injunction heretofore issued in this cause be dissolved, and that complainants pay costs of this suit.

By order of the court.

Test, JOHN A. SMITH,
Clerk.

Appeal prayed.

Thereupon the complainants, by their solicitor aforesaid, prays an appeal from the judgment aforesaid so as aforesaid rendered, to the Supreme Court of the United States, and it is granted them; whereupon they file in court here a certain writing obligatory, commonly called an Appeal Bond, in the words following, to wit:

Appeal Bond.

Know all men by these presents that we, John A. Smith, Henry Naylor, and Erasmus Middleton, are held and firmly bound unto George Dewees, Mary Smith, Archer B. Smith, and Ann Rothwell, and each of them, in the full and just sum of ten thousand dollars, lawful money, to which payment well and truly to be made and done, we do hereby bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated this ninth day of March, eighteen hundred and sixty.

Whereas lately at a Circuit Court of the District of Columbia,

sitting as a court of equity for Washington county, a cause wherein Andrew Rothwell, John A. Smith, Henry Naylor, and Robert S. Forde were complainants, and the said George W. Dewees, Mary Smith, Archer B. Smith, and Ann Rothwell were defendants, a decree was rendered against the said complainants, and they having entered an appeal to the Supreme Court of the United States, now the condition of the above obligation is such, that if the said complainants shall prosecute their appeal to effect, and answer all damages and costs if they fail to make their plea good, then the above obligation to be null and void, otherwise to be and remain in full force and virtue in law.

JOHN A. SMITH. [SEAL.]
H. NAYLOR. [SEAL.]
E. MIDDLETON. [SEAL.]

Signed, sealed, and delivered
in the presence of
DANL. RATCLIFF.

Approved. J. DUNLOP.

Which being read and heard, and the said bond being by the court here approved, it is therefore ordered by the court here, that the record and proceedings aforesaid, in the plea aforesaid, with all things thereunto relating, be transmitted to the said Supreme Court of the United States, and the same are transmitted to the said court accordingly.

In testimony whereof I have hereunto subscribed my name, [SEAL.] and affixed the public seal of the said court, this 12th day of September, 1860.

JOHN A. SMITH,
Clerk.

A11

SUPREME COURT.

ANDREW ROTHWELL, JOHN A. SMITH, HENRY NAYLOR, AND ROBERT S. FORDE,
vs.
GEORGE W. DEWEES, MARY B. SMITH, AND ANN ROTHWELL.

No. 198—December Term, 1861.
In Equity.

APPEAL FROM THE CIRCUIT COURT OF THE DISTRICT OF COLUMBIA.

The complainants in this cause set up that they are purchasers, for a valuable consideration, of certain pieces of ground in the city of Washington, which the defendants hold under certain deeds for tax sales made by the said city; that these lots were bought in 1796 by Joseph Ball and Standish Forde, and were conveyed to them in fee simple, as tenants in common, and not as joint tenants, (for deed, see pp. 12, 13). That Forde at the time of his said purchase was engaged in business in Philadelphia, as a co-partner of John Reed. Forde died in 1806, or 1807; Reed survived him. In 1807, Reed as survivor conveyed his own and all the partnership property to William Paige, of Philadelphia, on certain trusts, (Ex. 6, p. 16,) and in the schedule annexed to that deed (p. 26) is contained the property in controversy. That Paige, the trustee, for a number of years employed William Dewees, of the city of Washington, and the ancestor of defendants, under a certain agreement in writing and power of attorney, (pp. 43, 44, 45,) to take charge of, manage, sell, and dispose of, and to pay the taxes on this property; that Dewees, in fraud and violation of his trust as attorney, permitted portions of the said property, being those named in the bill, to be sold for taxes, purchased them himself, received deeds for them from the Corporation, died in possession of them, and left them to descend to the defendants, his heirs-at-law, who now claim and hold them.

That after the death of Dewees, the complainant, Rothwell, (whose wife was a daughter, and is one of the heirs-at-law, of Dewees,) was appointed agent for the whole of said property in the year 1837, and in the year 1846 purchased from Robert H. Smith (who had been appointed trustee on the death of Mr. Paige) all the equitable interest which passed by Reed's assignment to Page in all the said lots bought by Stan-

dish Forde and Ball, as above stated, and received a conveyance (p. 11.) He then entered into an agreement with his co-complainants, Smith and Naylor, under which he, in the year 1849, purchased the legal estate and interest of Standish Forde's heirs, and thus united the legal and equitable titles. (These deeds are on pp. 6, 7, 8, 9, 10.) The prayer of the bill is for an account of Dewees's stewardship, and redemption of one moiety of the property.

The proof is full as to all the material facts stated in the bill. And also that after his said purchase in 1846, Rothwell paid all the taxes falling due on the lots so purchased by Dewees, amounting to $1,113 90, without any contribution by the heirs of Dewees. (pp. 68, 69.)

The answer sets up, however, that Rothwell, by means of his intermarriage with Ann Dewees, became aware of the defects in Dewees's title, and improperly sought to prejudice his co-parceners, and to get an exclusive title to himself, and in equity he will be considered as purchasing on his and their account and benefit, they contributing their just proportion of the purchase money.

The court decreed that the property was partnership property, and as such survived to Reed and through Reed (as to the parts purchased by Dewees, as aforesaid) the equitable title passed to, and is vested in, Rothwell, as trustee for the heirs of Dewees, and they refused to allow Rothwell anything for the money paid to the heirs of Ford. They dismissed the bill as to Smith and Naylor, and also as to Robert S. Forde, who had sought to make himself a party as one of the heirs of Standish Forde; caused an account to be stated between Rothwell and the heirs of Dewees, (the defendants,) and charged them with their rateable proportion of the purchase money and taxes on these lots. (pp. 69, 70.)

The complainants have appealed from that decree, and will maintain that the same is erroneous, because:

First. The right acquired by Dewees having been acquired by fraud, no title passed to him or his heirs, and therefore the subsequent purchase made by the complainant, Rothwell, which was intended to be *adverse*, cannot in equity be made to inure to the benefit of the heirs of Dewees.

Second. That Rothwell having intermarried with one of the heirs of Dewees, and having but a life estate in the portion of the estate descended to his wife, is not within the principle of the rule which makes a purchase of an outstanding title or incumbrance by one co-parcener, or tenant in common, enure to the benefit of all.

I. POINT.

1. The case of Michoud *et al.*, *vs.* Girod *et al.*, 4th Howard, 554, 555, &c., lays down the rule by which agents, such as Dewees was, are prohibited from purchasing the property entrusted to their care.

2. It being a fraudulent purchase by Dewees, he was, in his life time, under the legal title derived from the corporation, a trustee, liable to account to his constituents for the full value of the property.

3. His heirs-at-law, being volunteers, could not take, by descent, a better title, or larger interest, than he had.

4. It being a naked, legal title, there could be no curtesy in the husband of one of those heirs, for if he was seized to a use only, he could not be tenant by the curtesy. (Gilb; use and trus. by Sug'd, 360.)

6. Rothwell having no beneficial interest in the land, by reason of his marriage, was free to purchase the equitable fee, and to treat the heirs of Dewees as trustees.

7. If they set up a beneficial interest, under their deed and possession, and he purchased adversely, his purchase could not enure to their benefit, as he was a stranger to their pretended interest, and equity will hold them as trustees for his benefit.

8. There is abundant evidence, and indeed it is very distinctly put in the answer, that his purchase was intended to secure the full title to himself.

II. POINT.

1. The extent of the rule upon which this case was decided by the Circuit Court, is stated by Chan. Kent, in Van Horne *vs.* Fonda, 5, John, ch. 407.

When two devisees are in possession under an *imperfect* title, derived from their common ancestor, one of them cannot buy in an outstanding title and appropriate the whole subject to himself, but such purchase will enure to their common benefit, subject to an equal contribution of expense.

2. This was not merely an *imperfect* title, it was, if not absolutely void, clearly voidable, and such a title as can find no favor in a court of equity.

3. The rule is confined to courts of equity, and unless the case be one which a court of equity can sustain, it does not apply.

4. The rule applies to an equality of estate and interest. Here the heirs of Dewees would take a fee. Rothwell would have an estate for the life of his wife to be enlarged on the birth of a child, to his life. It